1749

SUPREME COURT OF THE UNITED STATES.

No. 166.

PHILO CHAMBERLAIN AND JOHN H. CRAWFORD, CLAIMANTS OF THE PROPELLER OGDENSBURGH, App'ts,

vs.

EBER B. WARD AND STEPHEN CLEMENT, SURVIVORS OF SAMUEL WARD, Dec'd.

APPEAL FROM THE CIRCUIT COURT U. S. FOR THE SOUTHERN DISTRICT OF OHIO.

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At a Circuit Court of the United States for the Seventh Circuit and Southern District of Ohio, begun and held at the city of Cincinnati on the third Tuesday of October, being the sixteenth day of that month, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States of America the eighty-second, present the Honorable John McLean, Judge of said Court, the following proceedings were had, to wit:

EBER B. WARD and STEPHEN CLEMENTS, Survivors, &c., Owners of the steamboat "ATLANTIC," Libellants,

vs.

PHILO CHAMBERLIN and JOHN H. CRAWFORD, Owners of the propeller "OGDENSBURGH," Respondents.

In Admiralty.

"*Ordered*, that an appeal be allowed to said Philo Chamberlin and John H. Crawford to the Supreme Court of the United States from the decree rendered by this Court on the twelfth day of November, A. D. 1856, pursuant to their petition this day filed. It is further ordered that said appellants file their appeal bond, in the sum of fifty thousand dollars, within thirty days, with Isaac L. Hewitt, John H. Chamberlin, and George W. McNeal, as their sureties."

Thursday, October 22, 1857.

PHILO CHAMBERLIN and JOHN H. CRAWFORD, Appellants,

vs.

EBER B. WARD and STEPHEN CLEMENT, Survivors, &c., Appellees.

In Admiralty.

This day came the said appellants by Mr. Spalding, their Proctor, and submitted their appeal bond to the Court, which was approved, and ordered to be filed; whereupon a citation issued, and it was on motion further ordered that the following facts, which are satisfactorily made known to the Court, be certified by the Clerk of this Court to the Supreme Court of the United States with this appeal:—

"At the October term of this Court, A. D. 1856, the decree was rendered in this case, bearing date the 12th day of November, A. D. 1856. On the same day, the said Philo Chamberlin and John H. Crawford filed their petition for an appeal to the Supreme Court of the United States, and an appeal being allowed, they did, on the same 12th day of November, 1856, aforesaid, perfect the same by filing their bond to the acceptance of the Court, in the sum of $50,000, to prosecute said appeal to effect. Thereupon the Clerk of this Court was requested to make out a certified copy of the record, proceedings, and testimony, for transmission to the Su-

preme Court of the United States at Washington, at the then next ensuing term of said Supreme Court. Said Clerk proceeded at once to the discharge of said duty, but owing to the voluminous character of the record, and the press of business on his hands at the time, he could not, and did not, complete his said transcript until after the adjournment of said Supreme Court in the spring of the year one thousand eight hundred and fifty-seven. So soon as said transcript was completed, the same was forwarded to the Clerk of the Supreme Court at Washington, by express, and is now in the hands of said Clerk.

Ordered, that said transcript, now in the hands of the Clerk of the Supreme Court of the United States, at Washington, be taken and used by all parties in interest as the proper transcript to be filed in said Supreme Court on this appeal.

Wednesday, November 4, 1857.

UNITED STATES OF AMERICA,
Southern District of Ohio, ss:

I, William Miner, Clerk of the United States Circuit Court, Seventh Circuit and Southern District of Ohio, hereby certify the foregoing orders, to be truly taken and copied from the journal of the proceedings of said Court for the October term thereof, A. D. 1857.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, at Cincinnati, this 13th day of November, A. D. 1857, and in the 82d year of the Independence of the United States of America. [SEAL.] WM. MINER, *Clerk.*

UNITED STATES OF AMERICA,
Southern District of Ohio, Seventh Circuit, U. S.

To Eber B. Ward and Stephen Clement, survivors of Samuel Ward:

Whereas, Philo Chamberlin and John H. Crawford, owners of the propeller Ogdensburgh, have lately appealed to the Supreme Court of the United States from a decree heretofore rendered in the Circuit Court of the United States for the Southern District of Ohio, in the Seventh Circuit, and dated the twelfth day of November, in the year one thousand eight hundred and fifty-six, in a cause in Admiralty, wherein you are libellants, and the said Philo Chamberlin and John H. Crawford are respondents, and which decree was rendered in your favor, and against the said Philo Chamberlin and John H. Crawford for thirty-six thousand dollars' damages, costs divided; and whereas, the said appellants have filed the security required by law; you are therefore hereby cited to appear before the said Supreme Court of the United States, at the city of Washington, on the first day of next ensuing term thereof, to do and receive what may appertain to justice to be done in the premises.

Given under my hand, at the city of Cincinnati, in the Southern District of Ohio, in the Seventh Circuit, the fourth dayof November,

in the year of our Lord one thousand eight hundred and fifty-seven, and of the Independence of the United States the eighty-second.

JOHN McLEAN,
Asst. Jus. Sup. Court, U. S.

UNITED STATES OF AMERICA,
Northern District of Ohio, ss:

A. C. Keating being duly sworn, saith that he served on John S. Newbury, Esquire, Proctor of the appellees at Detroit, Michigan, on the sixth day of November, A. D. 1857, a copy of this citation, and a copy of the petition for an appeal filed in this case with the Clerk of the U. S. Circuit Court for the Southern District of Ohio, on the 22d day of October, 1857, by delivering said copies to said John S. Newbury, in person, and making known to him their contents.

ASA. C. KEATING.

Sworn to before me, and subscribed by said A. C. Keating, in my presence, at Cleveland, Ohio, this 9th day of November, A. D. 1857.

JNO. C. GRANNIS,
U. S. Com'r N. Dist. Ohio.

Indorsed: Philo Chamberlin *et al.*, appellants, *vs.* Eber B. Ward *et al.*, appellees. Citation.

Circuit Court of the United States for the Southern District of Ohio.

PHILO CHAMBERLIN and JOHN H. CRAWFORD, Appellants,
vs.
EBER B. WARD and STEPHEN CLEMENT, Survivors and Appellees.

To the Supreme Court of the United States:

The petition of appeal of the above-named Philo Chamberlin and John H. Crawford repectfully shows that a decree was lately made in the Circuit Court of the United States for the Southern District of Ohio, bearing date the 12th day of November, A. D. 1856, in a certain cause of admiralty and maritime jurisdiction pending in the said court, wherein Eber B. Ward and Stephen Clement, survivors of Samuel Ward, deceased, were libellants, and the above-named Philo Chamberlin and John H. Crawford were respondents, in and by which decree it was among other things ordered, adjudged, and decreed that said Philo Chamberlin and John H. Crawford pay to said Eber B. Ward and Stephen Clement, survivors, &c., one-half of the damages sustained by the libellants, less one-half of the damage sustained by said respondents, amounting to the sum of thirty-six thousand dollars, to be paid by the respondents to the libellants after making said deduction.

And it was further ordered in and by said decree, that the decree heretofore rendered in this case in the United States District Court for the District of Ohio, be wholly reversed and annulled. And it was further ordered in and by said decree that said respondents pay the one-half of all the costs be taxed in this suit in both court, which

said decree of said Circuit Court, or so much thereof as is herein before stated and set forth, is, as these appellants are advised, erroneous, and ought to be reversed.

Wherefore, these appellants respectfully pray that so much of said decree as is hereinbefore stated and set forth, may be reversed, and that a decree be rendered in favor of the appellants for their damages and costs, and that such other decree may be made by this Court as shall be agreeable to equity and good conscience, and that these appellants may be restored to all things which they have lost by said decree.

And these appellants, as in duty bound, will ever pray.

PHILO CHAMBERLIN,
JOHN H. CRAWFORD.

Dated at Cincinnati, Ohio, this 22d day of October, A. D. 1857.

R. P. SPALDING, *Proctor.*

HENRY STANBERRY, *Advocate.*

UNITED STATES OF AMERICA,
Southern District of Ohio, ss:

I, William Miner, Clerk of the United States Circuit Court, Seventh Judicial Circuit, and Southern District of Ohio, hereby certify that the foregoing petition of appeal is truly taken and copied from the original as the same remains of file and record in this office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, this 24th day of November, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States of America the eighty-second.

[SEAL.] WM. MINER, *Clerk.*

Indorsed: No. 166, S. Ohio, C. C. U. S. Philo Chamberlain and John H. Crawford, claim'ts of the propeller Ogdensburg, appt., *vs.* Eber B. Ward and Stephen Clement, survivors, &c.

Filed 3d December, 1857.

SUPREME COURT OF THE UNITED STATES.

December Term, 1857.

PHILO CHAMBERLAIN *& al.*, claim'ts, &c., app't.,
vs.
JOHN B. WARD *& al.*, serv'ors, &c.

Nos. 120 and 166.

On the consideration of the motion of Mr. Ewing, in behalf of the counsel for the respective parties herein, and the stipulation of said counsel, it is now here ordered by the Court that the transcript of the record in the case No. 120, on the present docket, be with-

drawn from that case, and be filed, and considered as the return to the appeal taken in this case.

S. Ohio,
C. C. U. S.

Philo Chamberlain and John H. Crawford, Claimants of the Propeller Ogdensburgh, app'ts,
vs.
Eber B. Ward and Stephen Clement, survivors of Samuel Ward, dec'd.

No. 166.

1858, Feb'y 1. Ordered by the Court to be withdrawn from No. 120, and to be filed as the return in No. 166.
Filed 1 Feb'y, 1858.

United States of America,
Southern District of Ohio, ss:

At a Circuit Court of the United States, Seventh Circuit and Southern District of Ohio, begun and held at the City of Cincinnati on the third Tuesday of October, the same being the twenty-first day of that month, in the year of our Lord one thousand eight hundred and fifty-six, and of the independence of the United States of America the eighty-first, before the Honorable John McLean, judge of said Court, among other proceedings had were the following, to wit:—

Libel for Collision.

Eber B. Ward *et al.*
vs.
Philo Chamberlain and John H. Crawford.

In Admiralty.

Be it remembered, that heretofore, to wit, on the seventeenth day of October, in the year of our Lord one thousand eight hundred and fifty-three, came the said Eber B. Ward, Samuel Ward, and Stephen Clements, libellants and appellants, by their proctors, and filed in the office of the clerk of said Circuit Court a certain transcript of the proceedings had in this cause, in the District Court of the United States within and for the District of Ohio, which transcript is in the words and figures following, to wit:—

Transcript.

At a regular session of the District Court of the United States for the District of Ohio, in admiralty, begun and held at the City of Columbus on the third Tuesday, being the nineteenth day of April, in the year of our Lord one thousand eight hundred and fifty-three,

and of the independence of the United States of America the seventy-seventh, before the Honorable Humphrey H. Leavitt, judge of said Court, the following proceedings were had, to wit:—

Libel for Collision.

EBER B. WARD *et al.*
vs.
PHILO CHAMBERLAIN AND JOHN H. CRAWFORD.

Be it remembered, that heretofore, to wit, on the twenty-seventh day of October, in the year of our Lord one thousand eight hundred and fifty-two, came the libellants, by N. H. Swayne, Esq., their proctor, and filed in the clerk's office of said Court their certain libel against the propeller Ogdensburgh, Philo Chamberlain and John H. Crawford, in the words and figures following, to wit:—

Libel.

To the Honorable H. H. Leavitt, Judge of the District Court of the United States within and for the District of Ohio.

The libel of Eber B. Ward, Samuel Ward, and Stephen Clement, of the district aforesaid, against John H. Crawford and Philo Chamberlain, owners of the propeller Ogdensburgh, respectfully represent that your libellants, before and at the time of the grievances hereinafter set forth took place, were the owners and proprietors of a certain steamer, called the Atlantic, with her steam engine, machinery, apparel, and furniture; which steamer your libellants employed in transporting passengers and freight from port to port on Lake Erie. That on the morning of the 20th of August, 1852, the said steamer, well manned and in all respects well appointed, was navigating the waters of Lake Erie near Long Point, in Canada, carrying freight and passengers in her usual and accustomed route, and where she had full right to be, and having the usual and necessary complement of officers and men, and the master and crew engaged on board were on the lookout for the protection and safety of said steamer; that while said steamer was thus navigating the waters of Lake Erie, as aforesaid, on the morning of the said 20th of August, 1852, the said propeller Ogdensburgh then and there, with great force and violence, and through the improper and unskilful management of the persons navigating said propeller, ran into and sunk the said steamer Atlantic: to the damage of the libellants $100,000.

That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States, and of this honorable Court:

Whereupon the libellants pray that process in due form of law, according to the course of this honorable Court in cases of admiralty and maritime nature, may issue against the said John H. Crawford and Philo Chamberlain, the said owners of said propeller, and

that all persons having any interest therein may be cited to appear and answer all and singular the matters aforesaid, and that this honorable Court would be pleased to decree the payment of the damages aforesaid, and that said respondents pay the same, and that the libellants may have such other and further relief as in law and justice they may be entitled to receive.

EBER B. WARD,
SAMUEL WARD,
STEPHEN CLEMENT.

N. H. SWAYNE,
Proctor for Libellants,
By P. B. WILCOX.

And on motion of the libellants, it is ordered that process issue against the defendants without affidavit. Oct. 27th, 1852.

And thereupon, the following monition and attachment was issued out of the clerk's office of said Court, in this cause, to wit:—

Monition and Attachment.

DISTRICT OF OHIO, *ss.*

The President of the United States of America to the Marshal of the District of Ohio, greeting:

Whereas, a libel has been filed in the District Court of the United States for the District of Ohio, on the 27th day of October, in the year eighteen hundred and fifty-two, by Eber B. Ward, Samuel Ward, and Stephen Clement, against the propeller Ogdensburgh, and John H. Crawford, and Philo Chamberlain, owners of said propeller Ogdensburgh, and the tackle, apparel, and furniture of the said propeller Ogdensburgh, for the reasons and causes in said libel mentioned, and praying the usual process and monition of the said Court in that behalf to be made, and that all persons interested in the said propeller, her tackle, &c., may be cited to answer the premises, and all proceedings being had, the said propeller, her tackle, &c., may, for the causes in said libel mentioned, be condemned and sold, to pay the demands of the libellants.

You are, therefore, hereby commanded to attach the said propeller Ogdensburgh, her tackle, apparel, and furniture, and detain the same in your custody, until the further order of the Court respecting the same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of said libel, that they be and appear before the said Court, to be held in and for the District of Ohio, at Steubenville, on the first Monday in the month of December next, at 10 o'clock A. M., if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their alle-

gations in that behalf, and what you shall have done in the premises do you then and there make return thereof, together with this writ.

Witness the Honorable H. H. Leavitt, Judge of said District Court, this 27th day of October, Anno Domini 1852, and of the American independence the 77th.

[SEAL.] Attest, WM. MINER, *Clerk.*

On which said monition and attachment is the following endorsement, to wit:—

Endorsement.

Action for $100,000.

And afterwards, to wit, on the eleventh day of November, in the year last aforesaid, came the said libellants by their proctor and filed in court here their amended libel, which is in the words and figures following, to wit:—

Amended Libel.

UNITED STATES OF AMERICA,
District of Ohio, ss.

To the Honorable Humphrey H. Leavitt, Judge of the District Court for the District of Ohio.

The amended libel of Samuel Ward, Eber B. Ward, both of the State of Michigan, and Stephen Clement, of the State of Illinois, against Philo Chamberlain and John H. Crawford, merchants, residing in Cleveland in said district, and owners of the propeller Ogdensburgh, and all persons lawfully intervening for their interest in said propeller, in a cause of collision, civil and maritime, as follows:—

First. That the libellants, before and at the time of the collision hereinafter in the third and subsequent articles mentioned, were the owners of a certain steamboat called the Atlantic, whereof Petty was master, with her steam engine, boilers, machinery, tackle, apparel and other furniture, which said steamboat was enrolled and licensed according to the laws of the United States, at the port of Detroit in the District of Michigan, and was employed and used by your libellants in transporting passengers and freight to, from, and between the Port of Detroit in the District and State of Michigan, and the Port of Buffalo in the Northern District of New York and State of New York, upon and over the waters of Lake Erie and the River Detroit, the same being ports and places in different States upon the Lakes and navigable waters connecting said Lakes, and between said ports said steamboat was run regularly each way twice in each week, and for the purposes aforesaid, and that said steamboat was of eight hundred tons burthen and upwards.

Second. That on Thursday, the nineteenth day of August, in the year 1852, in the evening of said day, the said steamboat Atlantic

left said Port of Buffalo with a large load of passengers and freight on her regular day for so leaving, and at about her usual time, bound on her trip to the Port of Detroit; that said steamboat was then and there, and also at the time when she was run into as hereinafter mentioned, tight, stanch, and strong, well built, and in every respect well and thoroughly manned, tackled, apparelled, equipped and appointed, and having the usual and necessary complement of officers and men, and that the proper officers and crew engaged on board of said steamboat were on the look out for the safety and protection of said steamboat.

Third. That said Atlantic, after leaving said Port of Buffalo, proceeded steadily and by the usual and direct route and course across said Lake Erie, on her said voyage, with all her signal lights burning and displayed as required by law; and while so proceeding, at about the hour of half past two o'clock on the morning of the following day, to wit, Friday, the twentieth day of August aforesaid, and when said steamboat was on said lake, and off Long Point, so called, on the Canada shore, the said propeller Ogdensburgh, whereof Robert Richardson was master, then being on her way from Cleveland to the entrance of the Welland Canal, so called, came upon the said steamboat, and then and there with great force and violence ran into and upon the said steamboat, the bow of said propeller striking the larboard side of said steamboat at or near the forward larboard gangway thereof, and did by the force and violence of said collision break and crush into and through the guard and hull of said steamboat at the place aforesaid; by reason thereof the said steamboat became filled with water, and sunk in about twenty-five fathoms of water in said Lake Erie, and thereby became wholly lost to the libellants.

Fourth. That before and at the time of said collision, the said propeller Ogdensburgh was a vessel of five hundred tons burthen and upwards, was owned by said Chamberlin and Crawford, was duly enrolled and licensed at the Port of Cleveland in the District of Ohio, and was at the time aforesaid in the business of commerce and navigation upon the Lakes and navigable waters connecting said Lakes; that on the said nineteenth day of August, the said propeller left the port of Cleveland in the District and State of Ohio, on a voyage by the way of the Welland Canal to the port of Ogdensburgh in the State of New York, and in the Northern District of New York, and while proceeding on said voyage on the morning of said twentieth day of August, at the hour aforesaid, and while propelled by her steam engine and other machinery, she ran with force and violence into and against said steamboat as aforesaid.

Fifth. That before and at the time of said collision, the said propeller did not have burning and properly displayed the signal lights in such case required by law, that she was not then proceeding and steering in the usual and direct route and course from said Cleveland to the entrance of said Welland Canal; that when said propeller

came within sight of the lights of said steamboat, which were clearly visible from said propeller at a long distance, to wit, at least two miles, the persons navigating said propeller neither stopped her engine nor slackened her speed, nor altered her course, nor took any other precaution to prevent or avoid a collision with said steamboat, as they in law were bound to do.

Sixth. That the officers and crew navigating said steamboat before and at the time of said collision, were exercising and maintaining the usual and proper watch and care for the skilful, prudent, and careful management, custody, protection and navigation of said steamboat in her said voyage; that as soon as they were able to make out the direction in which said propeller was going, and perceived that the said propeller was approaching said steamboat, said persons navigating said steamboat put the wheel of said steamboat first aport, then hard aport, and turned the course of said steamboat to the right, and away from said propeller, as in law it was their duty to do, and made every effort to prevent and avoid a collision with said propeller; but that the persons navigating said propeller, though they saw the lights of said steamboat at a great distance and long before said collision, and in ample time to have prevented or avoided the same, did not put the wheel of said propeller aport, nor turn the course of said propeller to the right, and away from said steamboat as they were bound to do, nor stop, nor slacken the engine of said propeller, nor before said collision display on said propeller the lawful signal lights, but, on the contrary, the said propeller was so improperly, negligently, and unskilfully managed and navigated, that she run directly and almost at right angles into and against the said steamboat as aforesaid, and that the collision aforesaid was occasioned by the negligence, inattention, and want of proper care, caution and skill on the part of the master, officers and crew of said propeller, and not from any fault, omission or neglect on the part of said steamboat, her master, officers or crew.

Sixth. That the said steamboat was so damaged by the said collision, that though every exertion was made by her master, officers, and crew, to save her, it was impossible so to do; but said steamboat, her steam-engine, boilers, machinery, tackle, apparel, and other furniture, together with all the money received for the fare of her passengers and freight of her cargo, and all the baggage of her said passengers, together with all her cargo, almost immediately after said collision, sunk in twenty-five fathoms of water, and became and is wholly lost to the libellants; and that the libellants, by reason and in consequence of said collision, have sustained damages for the loss of the entire value of said steamboat, her steam-engine, boilers, machinery, tackle, apparel, and other furniture, for the amount of money received for fare and freight as aforesaid, and for the value of baggage and cargo as aforesaid, to the amount of one hundred thousand dollars, which said damages were occasioned by the negligence, want of skill, and improper conduct of persons navigating

said propeller, and not through any fault, negligence, or improper conduct on the part of the persons navigating the said Atlantic, or of her master, officers, and crew.

Seventh. That since the happening of said collision, these libellants have applied to the said Philo Chamberlin and John H. Crawford, the owners of said propeller, and requested them to settle with these libellants, and pay them for the damages by them sustained as aforesaid; but said owners deny that there is any liability on the part of themselves, or of said propeller, for said damages, or any part thereof.

Eighth. That said propeller Ogdensburgh is now at the port of Cleveland, and within the jurisdiction of this Court.

Ninth. That all and singular, the premises are true, and within the admiralty and maritime jurisdiction of this honorable Court.

Wherefore, the libellants pray that process in due form of law according to the course of this honorable Court in cases of admiralty and maritime jurisdiction, may issue against the said Philo Chamberlin and John H. Crawford, and that all other persons having, or pretending to have, interest in said propeller, may be cited to appear and answer the matters aforesaid, and that this honorable Court will be pleased to decree to the libellants such sum for the damages sustained by them by the said collision as may be just, against the said Philo Chamberlin and the said John H. Crawford, with costs, and that the libellants may have such other and further relief in the premises as in law and justice they may be entitled to receive.

SAMUEL WARD,
EBER WARD,
STEPHEN CLEMENT,
By GEORGE V. N. LATHROP,
their Agent and Attorney.
N. H. SWAYNE,
Proctor for Libellants,
By P. B. WILCOX.

THE STATE OF OHIO,
Franklin County, ss:

George V. N. Lathrop, of the city of Detroit and State of Michigan, an attorney and counsellor-at-law, being duly sworn, maketh oath and says, that he is an agent and attorney for the said Samuel Ward, Eber B. Ward, and Stephen Clement, and fully authorized to sign the foregoing libel in their names and behalf; that he has so signed it; that this deponent has read the foregoing libel, and knows the contents thereof; that deponent has ascertained the facts therein set forth from the most authentic sources, and from his best knowledge and information he believes the same to be true, except that he does not know whether, at this moment, said propeller Ogdensburgh is at the port of Cleveland. Deponent further says that all of the said libellants live more than one hundred miles from the

place of holding of the said District Court, and as deponent believes no one of them are now within the district of Ohio.

GEORGE V. N. LATHROP.

Sworn to and subscribed before me, James A. Wilcox, a Notary Public within and for said County of Franklin, this 3d day of November, A. D. 1852.

[SEAL.] JAMES A. WILCOX, *N. P.*

On which said amended libel is the following indorsement, to wit:

Indorsement.

This amended libel is allowed to be filed, and the signature of the libellants in their own hand-writing, and any further oath than that hereto annexed are dispensed with.

H. H. LEAVITT, *Judge, &c.*

Nov. 6, 1852.

And afterwards, to wit, at a special session of said Court, held pursuant to the rules thereof, at Steubenville, on the first Monday in the month of December, being the sixth day of that month, in the year last aforesaid, the Marshal of said district made return of said process into said Court, with his proceedings indorsed thereon in the words and figures following, to wit:—

Marshal's Return.

In obedience to the commands of this writ, I, on the 27th day of November, A. D. 1852, made service of the same by attaching the within named propeller Ogdensburgh, her tackle and apparel, including all and singular, each and every article from her keel to the topmast, and from her stem to her stern. I also summoned Philo Chamberlin and John H. Crawford, the reputed owners of said propeller Ogdensburgh, to be and appear before the United States Court for the District of Ohio, to be holden at Steubenville on the first Tuesday of December, 1852, by handing to each of them a true and certified copy of this writ, and also by publishing in the *Daily Cleveland Herald* a full and correct statement of this suit as per notice on file.

G. A. JONES, *Marshal Ohio Dist.*
By ERASTUS SMITH, *Deputy.*

And thereupon came the said defendants by R. P. Spalding, Esq., their Proctor, and filed their preliminary answer herein, which is in the words and figures following, to wit:—

UNITED STATES OF AMERICA,
District of Ohio, ss:

Preliminary Answer.

In the District Court of the United States, within and for the District of Ohio.

EBER B. WARD, et al.
vs.
THE PROPELLER OGDENSBURGH, and others.

Libel. In Admiralty.

And now come Philo Chamberlin and John H. Crawford, partners in business at Cleveland, Ohio, under the name and style of Chamberlin and Crawford, and for a preliminary and partial answer to the libel and amended libel of Eber B. Ward, Samuel Ward, and Stephen Clement, against the said propeller Ogdensburgh, do allege and propound as follows, to wit:. That the said Chamberlain and Crawford are the true and bona fide owners of the said propeller Ogdensburgh, and that no other person is the owner thereof.

CHAMBERLAIN & CRAWFORD,
By PHILO CHAMBERLAIN.

R. P. SPALDING,
Proctor for Claimants.

Sworn to and subscribed by said Philo Chamberlain, as and for a true answer before me at Cleveland this first day of December, A. D. 1852.

SO. GRISWOLD, *Notary Pub.*

And thereupon the following proceedings were had in this cause, to wit: The process issued in this case having been duly returned served by seizing the said propeller, &c., and the proof of publication and preliminary answers of Chamberlain & Crawford claimants of the propeller Ogdensburgh filed: This case is postponed for hearing to the first Monday in January next at 10 o'clock A. M.

And afterwards, to wit, on the third day of January, in the year of our Lord one thousand eight hundred and fifty-three, came the said defendants by their proctor and filed their answer herein, which is in the words and figures following, to wit:—

Answer.

UNITED STATES OF AMERICA,
District of Ohio, ss.

To the Honorable Humphrey H. Leavitt, Judge of the District Court of the United States for the District of Ohio.

The joint answer of Philo Chamberlain and John H. Crawford,

merchants, co-partners doing business in Cleveland, Ohio, under the name of Chamberlain & Crawford. Intervening for their interest in the propeller Ogdensburgh, of which they are the sole owners, to the libel and amended libel of Samuel Ward, Eber B. Ward, and Stephen Clement, answer and allege as follows:—

First. The respondents do allege and propound as matter exceptive of said libel, that the libellants have improperly joined a proceeding *in rem* against the propeller Ogdensburgh, with a proceeding in personam against the respondents as her owners, and therefore the said respondents insist that they are not bound further to answer the same, and pray that said libel may be dismissed with costs.

Second. That these respondents are ignorant of the matter contained in the first article of said amended libel, except from common report, and therefore can neither admit nor deny the truth of those allegations, but call for proof *aliunde*.

Third. As to the matter contained in the second article of said amended libel, these respondents say that they have no personal knowlege, but have understood and believe it to be true, that on Thursday the nineteenth day of August, in the year one thousand eight hundred and fifty-two, and in the evening of said last mentioned day, the said steamboat Atlantic left said port of Buffalo with a large load of passengers bound on her trip for the port of Detroit; as to her freight, and whether it was on her regular day, and at her usual time, these respondents are wholly ignorant. But as to the allegations of the libellants in the latter part of said second article of their amended libel contained, to wit: "That the steamboat was then and there tight, staunch, and strong, well built, and in every respect well and thoroughly manned, apparelled, equipped, and appointed, and having the usual and necessary complement of officers and men, and that the proper officers and crew engaged on board of said steamboat were on the look-out for the safety and protection of said steamboat." These respondents answer and say that the same are untruly alleged and pleaded, for the truth is, as these respondents will maintain and prove, that said steamboat Atlantic was of exceedingly frail construction, and by no means staunch and strong, not well built, poorly manned and appointed, and having a set of officers signally deficient in knowlege, experience, and self-command, as well as other qualities requisite to a proper discharge of their responsible duties, and the proper officers and crew engaged on board of said steamboat were not on the look-out as they should have been for the safety and protection of said steamboat, or of other vessels then navigating said lake.

Fourth. That these respondents have no personal knowlege in respect to the matters alleged in the third article of said amended libel, but so far as the same have a bearing upon the character and conduct of the propeller Ogdensburgh on the morning of the twentieth of August, 1852, these respondents say that according to the best of their information and belief, the truth is as follows: said

propeller owned entirely and exclusively by these respondents, and commanded by Captain Robert Richardson, left the port of Cleveland in Ohio, deeply laden, on the nineteenth day of August, A. D. 1852, at about twelve o'clock and twenty minutes P. M.; she proceeded via Fairport in Ohio, toward her port of destination, Ogdensburgh in the State of New York, which was to be reached through the Welland Canal in Canada. At about two o'clock A. M. of the next succeeding day, and when the propeller was steering in her proper course northeast by east for the mouth of said Welland Canal, wind light from the southwest and weather somewhat foggy or rather hazy, the watch on her deck discovered a steamboat light from two to three points on propeller's starboard bow, the steamboat supposed then to be distant about three miles. The propeller was kept on her course, running at the speed of about seven miles an hour, until her mate, who then had the watch, ascertained that the "light" was nearing him fast, when he gave the signal to "slow" the propeller, which was done; very soon he discovered that the "light" was coming still nearer, when he gave the signal to "stop" the propeller, and this order was instantly obeyed. He then, finding the vessels likely to come in contact, directed the engine to be reversed, and the propeller to be "backed," which was done with all possible dispatch, but in spite of all these precautionary measures on the part of the propeller, a collision ensued, which was followed by the most disastrous consequences. The steamboat, if steering her true course for Detroit (S. W. &. W.) at the time her light was discovered from the deck of the propeller, would have passed the latter vessel nearly a mile on her starboard quarter had she held her course, but, as the libellants aver in the sixth article of their amended libel: "The persons navigating said steamboat (perceiving that said propeller was approaching said steamboat) put the wheel of said steamboat first aport, and then hard aport, and turned the course of said steamboat to the right," which management these respondents claim brought the steamboat across the bows of the propeller, and as she (the steamer) was running with unabated speed, some fifteen miles an hour, caused the injury that either vessel received, the steamboat at her larboard forward gangway falling with all her momentum upon the stem of the propeller, which she wrenched out of place and left standing at an angle of ninety degrees with its true position, and turning the propeller one-half round. These respondents in further answering said third article of said amended libel aver, and upon the hearing of this cause will maintain and prove that so far from using the ordinary precautionary measures to prevent a collision, the persons navigating said steamboat made no effort to check her speed, either before or after the collision, but with unparalleled recklessness crowded her ahead until the waters of the lake closed over her and swallowed up large numbers of her ill-fated passengers. These respondents allege that the persons in charge of the propeller from the moment they discovered the light of said steamboat to the time

of the collision, conducted themselves and managed their vessel according to the most approved rule of lake navigation, and in the manner that a due regard to the safety of both vessels with the lives and property on board required at their hands. Even after the collision, and so soon as he had taken suitable steps to keep his vessel from sinking by thrusting bedding and blankets into her broken bows, the captain of the propeller made his way after the wounded steamer, and in despite of the remonstrance of the captain of the Atlantic proceeded to take on board her drowning passengers and crew.

These respondents have no means of knowing whether said steamer Atlantic, after leaving said port of Buffalo, proceeded steadily and by the usual and direct route and course across Lake Erie or not, or whether she kept all her signal lights burning and displayed. They ask for strict proof in regard to these several matters. They admit that the collision occurred at the time and place, or very nearly so, as stated in said third article of said amended libel. They admit that by reason of injuries received in said collision, said steamer Atlantic speedily filled with water, and sunk in Lake Erie, and thereby became partially lost to the libellants, but they are not prepared to admit that a well built, strong, and staunch steamer would have been sunk by a like collision with said propeller, even if directed with similar imprudence.

Fifth. In answer to the fourth article of said amended libel these respondents say they admit to be true all the several matters therein alleged, saving and excepting that the tonnage of said propeller was no more than 353 tons, and saving the closing paragraph, that "while propelled by her steam engine and other machinery, she ran with force and violence into and against said steamboat." This is denied, and the contrary claimed to be the truth, to wit: that the propeller was at rest, or nearly so, at the moment of collision, and that she was run into and greatly damaged by said steamer Atlantic, which last vessel was then running under a full head of steam, at the rate of fifteen miles per hour.

Sixth. In reply to the fifth article of said amended libel, these respondents say that all the several allegations therein contained are untrue, save the allegation that the propeller did not alter her course. It is admitted that she did not change her course after discovering the lights of the steamboat until the instant before the collision, when the mate perceiving that a collision was inevitable from the manner in which the steamboat was conducted, gave the order to starboard the helm, with the view of thereby breaking the force of the blow. The propeller, in truth and in fact, had all her lights burning and properly displayed, as required by law. She was proceeding and steering in the usual and direct route and course from Cleveland via Fairport to the entrance of the Welland Canal; when the propeller discovered the light of the steamboat nearing her, she did stop her engine and slacken her speed, and she did take

every precaution observed by skilful and prudent mariners under like circumstances to prevent and avoid a collision with said steamboat, but the collision did take place in spite of these precautionary measures on the part of the propeller, for the reason, as these respondents affirm, that the officers in charge of said steamboat were either reckless or inexperienced, and caused the collision by their own imprudence, want of foresight, skill, watchfulness and care.

Seventh. As to the sixth and seventh articles of said amended libel, these respondents say, as they have already said in substance, that the matters therein contained are in great part falsely alleged, and that the truth is, said officers and crew navigating said steamboat before and at the time of said collision were not exercising and maintaining the usual and proper watch and care for the skilful, prudent, and careful management, custody, protection, and navigation of said steamboat in her said voyage. Upon making the discovery that the propeller was approaching said steamboat they did (it is admitted) put the wheel or helm of said steamboat first aport and then hard aport, which turned the course of said steamboat to the right, it is true, but not away from said propeller, as is falsely claimed in said sixth article. The direct tendency of putting the helm aport in the then relative position of the two vessels, was, as is claimed by these respondents, to bring about the collision, the propeller being at that time some three-fourths of a mile on the starboard bow of the steamboat, or in common parlance to her right. It is true that the propeller did not port her helm, and it is confidently insisted that it would have been wrong for her to have done so under the existing circumstances, but she did slacken her speed and stop her engine; she did have her signal lights well displayed, and was in all things properly and skilfully managed and navigated, and the said collision was not occasioned by the negligence, inattention, or want of proper care, caution, and skill, on the part of the master, officers, and crew of said propeller, but wholly through the fault, omission, neglect, and unskilfulness of the master, officers, and crew of said steamboat, in turning her from her cause across the path of the propeller, and in their culpable neglect to stop the steamer, or to slacken her speed, when such change of course was found to increase the hazard of a collision by bringing her nearer to said propeller. The respondents admit not a total loss of said steamboat, her engine, tackle, apparel, and furniture, but a partial loss thereof, with the loss of the most of her lading, but deny that the value thereof was anything like the sum of one hundred thousand dollars, as claimed by the libellants. They again insist that the loss, be the amount never so great, was owing entirely to the fault of the persons in charge of said steamboat at the time of said collision, and not to the mismanagement or want of care and skill on the part of the captain, officers, and crew of said propeller.

Eighth. As to the eighth, ninth, and tenth articles of said amended libel, these respondents say that it is true that since said loss, the

said libellants have exacted damages at the hands of these respondents, but to pay the same or any part thereof as claimed by the libellants, these respondents have uniformly refused and still do refuse, believing that there is no liability whatever on the part of said propeller growing out of said collision. They admit that said propeller Ogdensburgh to be within the jurisdiction of this Honorable Court. They admit that the matter contained in the libel and amended libel to be within the admiralty and maritime jurisdiction of this Court, but they deny the several allegations contained in the libel except so far forth as they stand admitted to be true by this answer.

Ninth. That all and singular the premises are true. Therefore, the respondents pray that this Honorable Court would be pleased to pronounce against the libel and amended libel aforesaid, and to condemn the libellants in costs, and if the rules of admiralty practice will admit, the respondents pray that so much of this answer as impugns the conduct of said steamboat Atlantic, her captain, officers, and crew, anterior to, and at the time of said collision, may be taken and regarded as a cross libel against the said Samuel Ward, Eber B. Ward, and Stephen Clement, and that this Honorable Court will be pleased to decree to these respondents such sum for the damages sustained by them, by the said collision, as may be just, and otherwise law and justice to administer in the premises.

R. P. SPALDING,
Proctor for Respondents.

DISTRICT OF OHIO, *ss.*

Philo Chamberlin and John H. Crawford, respondents as aforesaid, being duly sworn, say, that the matters set forth in the foregoing answer are true to the best of the knowledge, information, and belief of these deponents.

PHILO CHAMBERLIN,
JOHN H. CRAWFORD.

Sworn to this third day of January, 1853, before me,

RICHARD C. PARSONS,
U. S. Com'r.

And afterwards, to wit, on the first Monday of January, being the seventh day of the same month, in the year last aforesaid, neither party appearing, this cause was postponed for hearing to the first Monday of February next at 10 o'clock A. M. And afterwards, to wit, on the first Monday of February, being the seventh day of that month, in the year last aforesaid, neither party appearing, this cause was postponed for hearing to the first Monday of March next at 10 o'clock A. M. And afterwards, to wit, on the first Monday of March, being the seventh day of that month, in the year last aforesaid, by consent of parties this cause was further postponed to, and set for hearing at Columbus, on Tuesday, the 26th of April, at 10 o'clock A. M., being the regular session of said Court. And afterwards, to wit, at the term of April A. D. 1853, first herein

aforesaid mentioned, came the parties by their counsel, and thereupon the following proceedings were had, to wit: In this case it is agreed by the parties that the claimants' answer shall operate as a cross libel, and the claims of both parties to damages shall be considered by the Court in weighing the evidence, and shall be adjudicated upon in the final decree. It is admitted that the damage sustained by the Ogdensburgh amounted to the sum of three thousand dollars, and that the value of the Atlantic was seventy-five thousand dollars April 28th. And afterwards, in this same term of April, to wit, on the fifth day of May, in the year last aforesaid, it was ordered that the exception taken by respondents to the libel for misjoinder be sustained, and thereupon, upon their motion, leave is given the libellants to strike from their libel the proceeding against the propeller Ogdensburgh, May 5th, 1853.

Decree.

And afterwards, in the same term of April, to wit, on the tenth day of May, in the year last aforesaid, this cause came on for a hearing upon the libel filed by Eber B. Ward, Samuel Ward, and Stephen Clement, owners of the steamboat Atlantic, against the propeller Ogdensburgh, and Philo Chamberlin and John H. Crawford, her owners, and upon the answer of said Philo Chamberlin and John H. Crawford, as claimants of said propeller, exhibits and testimony, and was fully argued by counsel: Whereupon it is ordered, adjudged, and decreed by the Court that the exception taken by claimants in the said answer to said libel for a misjoinder be sustained, and (the libellants having obtained permission to amend, and having amended by striking from their libel the propeller Ogdensburgh) it is further ordered, adjudged, and decreed, that the said libel be dismissed with costs, and the Court finding that the collision complained against was wholly and entirely owing to the fault of the said steamboat Atlantic, her officers and crew, by consent of parties that a decree for claimants shall follow such finding, does further order, adjudge, and decree, that said Eber B. Ward, Samuel Ward, and Stephen Clement pay to the claimants, Philo Chamberlin and John H. Crawford, within thirty days from the rendition of this decree, the just and full sum of three thousand (3000) dollars, with interest thereon until paid, as the amount of damages agreed by the parties to have been sustained by said propeller Ogdensburgh by reason of said collision. And it is further ordered that the said Eber B. Ward, Samuel Ward, and Stephen Clement pay the costs of this suit, and that execution issue therefor, as also for the sum decreed as aforesaid, in case of failure of payment within the term of thirty days as aforesaid, as upon judgments at law. And the libellants give notice of appeal to the Circuit Court, which is allowed upon their giving bond in the sum of six thousand dollars, with sufficient securities, residing in the State of Ohio; said bond to be filed within thirty days to the acceptance of the clerk. May 10th, 1853.

And afterwards, to wit, in the term of April aforesaid, to wit, May the eleventh, A. D. 1853, in this case, came the said libellants by Mr. Swayne, their advocate, and prayed the Court that an appeal from the decree rendered in this case be allowed to the Circuit Court of the United States, next to be holden in the District of Ohio, and an appeal is allowed accordingly upon said libellants executing to said Chamberlin and Crawford, within thirty days from this date, a bond to be approved by the clerk of this Court, a bond in the sum of six thousand dollars, with sureties residing in the State of Ohio, conditioned that said libellants will prosecute said appeal to effect, and pay all moneys which may be decreed against them in said cause in said Circuit Court, which said bond shall be filed with said clerk, and the said respondents waiving any citation or notice in respect to said appeal. May 11th.

And afterwards, to wit, on the tenth day of June, in the year eighteen hundred and fifty-three, libellants filed in the clerk's office of the Court aforesaid their bond as follows, to wit:—

Bond.

Know all men by these presents, that we, Eber B. Ward, Samuel Ward, Stephen Clement, Gleason F. Lewis, Lawson A. Pierce, and William J. Price, sureties, are held and firmly bound unto John H. Crawford and Philo Chamberlin in the sum of six thousand (6000) dollars, to the payment of which we jointly and severally bind ourselves, our heirs, executors, and administrators; sealed with our seals and dated this eighth day of June, A. D. 1853.

The condition of the above obligation is such, that whereas an appeal has been taken from the decree of the District Court of the United States within and for the District of Ohio, made on the tenth day of May, A. D. 1853, in a certain cause in admiralty, wherein Eber B. Ward, Samuel Ward, and Stephen Clement are libellants, against Philo Chamberlin and John H. Crawford, respondents, wherein a decree was rendered in favor of said respondents against said libellants for the sum of three thousand dollars in damages, and also the costs of said suit. All which, reference being had to the records and files of said District Court, will more fully and at large appear.

Now, if the said Eber B. Ward, Samuel Ward, and Stephen Clement, shall pay all damages and costs which shall be awarded against them by the final decree rendered by the Appellate Court, then this obligation shall be void, otherwise in full force and virtue in law.

EBER B. WARD, [SEAL.]
SAMUEL WARD, [SEAL.]
STEPHEN CLEMENT, [SEAL.]
G. F. LEWIS, [SEAL.]
L. A. PIERCE, [SEAL.]
W. J. PRICE. [SEAL.]

Signed and acknowledged before us,
G. L. HEATON,
J. R. HOWE.

UNITED STATES OF AMERICA,
District of Ohio, ss.

I hereby certify that the foregoing is truly taken and copied from the records of the proceedings of the District Court of the United States within and for the said District of Ohio.

In testimony whereof I do hereto subscribe my name, and affix the seal of said Court at the City of Columbus, this first day of October, in the year of our Lord one thousand eight hundred and fifty-three, and in the 78th year of the independence of the United States of America.

[SEAL.] WM. MINER,
Clerk D. C. U. S. O. D.

Deposition of Hiram J. Jones, taken before William D. Wilkins, United States Commissioner, for the District of Michigan, at the office of the Clerk of the United States Courts, in the City of Detroit, on the twenty-first day of March, A. D. 1853.

Deposition of H. J. Jones.

Witness saith: Resides in Detroit, Michigan, is aged thirty-one years, has served my time as a ship-builder, and sailed for ten or eleven years upon the Northwestern Lakes, and am now master of a steamer. Has been master of a steam craft for three seasons, and a part of a fourth, on the Lakes Erie and Huron; am acquainted with the usages prevailing amongst steam and sail craft, upon the Lakes, in respect to meeting and passing each other; was acquainted with the usages which prevailed in 1852, and for some years previous thereto, among steamers and propellers upon the Lakes, with respect to their carrying lights. These usages, among steamers and propellers, were matters of practice, and of law also, as I understand it. There was a general usage prevailing amongst steamers and propellers, with respect to carrying lights in the night. (The answer immediately preceding is objected to by Mr. Bachus, of counsel for claimants (W. D. W., Commissioner.) This general usage was a triangular light set in a prominent and conspicuous place on the forward part of the boat, generally on top of the pilot house, or in front of the mast. This triangular light was a red light on the larboard side, and a green light on the starboard side. The lights were reflected through stained glass, so as to show a red light on the larboard and a green light on the starboard side; was universally called, recognized, and looked for as the "signal light" of steamers and propellers. There was a generally known and recognized rule among persons navigating the lakes, as to the course to be taken by steam craft on meeting each other during the night, and approaching from opposite directions. The usage was to turn the bow of the vessel to the right, or, in other words, to keep to the right, leaving the boat you are meeting on the larboard hand. This usage was so

universally understood among all mariners, as to constitute a rule which would be expected to be generally observed. If I were on a vessel, and should see the red light on another vessel, I should certainly regard her on my larboard head, else I could not see the light.

(For diagram see original, page 28.)

With reference to the attached diagram, were I upon a propeller going in the direction of the propeller in the diagram, and should make the red light of a steamer approaching in the direction of the steamer in the diagram, according to the usage prevailing among steamers and propellers on the lakes, my duty would be first to calculate the distance that the steamer was off, according to the best of my judgment, and second, to take the bearing of the red light, or to calculate how far to one side it was, so as to ascertain what her position was compared with mine. It would be my duty to watch that light and see if her position altered. If I saw her position altered, I should be guided by the alteration there was in her position; if she neared me, or narrowed the angle towards my course, it would indicate that one of us was running converging courses, I should then order my wheel to be put to port, so as to sheer my vessel's head to starboard. I should direct her wheel to be put to port, so as to direct her head to starboard, from one to three points; should I then see that the other vessel was still sheering on to me, I should then stop. If I was on the propeller, and saw the steamer's red light, according to the usage and practice on the lakes, I would have a right to expect that the steamer would pass on my larboard side. This is with reference to the position of the vessels in the above diagram, continuing with reference to this diagram. If, on making the red light on the steamer, I should put my wheel a-starboard, I might then expect a collision, referring still to the above diagram, but changing my position to the steamer, if I should, in a still night, make one or two points to my left hand, one or two white lights at a distance, and see nothing else, I should keep my course until I found out what it was, or that I was directly running on to them. If I still continued on the steamer, and seeing nothing but these lights in a still night, and continuing to near them, I should port my wheel a point or so, so as to open the lights on my larboard head, and edge away a point or two, enough to pass them. Seeing nothing but a white light on a still night, I would not consider it my duty to stop the steamer unless I was close on it, and running on to it. Being on the steamer running up the land, and seeing on my left hand the "signal lights" of a steamer or a steam vessel, it would be the duty of the steam vessel to pass me on the larboard. When steam vessels showing ther signal lights, approach each other during the night, it is usual to avoid each other by changing their courses, and not by stopping, but I have known them

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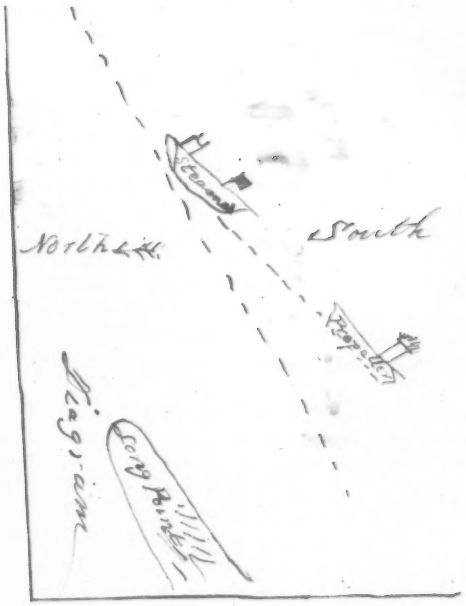

in certain cases to stop. They would stop when after changing courses, one seemed to be coming right into the other, it would be a last resort, when a collision could not be avoided in any other way. If I were on the steamer, and should see the other steam vessel on the larboard, showing her "signal lights," approaching on the larboard side, and under circumstances where it was her duty to pass me on the larboard side, the steamer approaching me should suddenly put a helm a-starboard (seeing only her lights and not her hull, and supposing them to be so far apart that I cannot see the hull of the vessel), a collision would be likely to happen before the headway of the boats could be stopped, supposing them to be a quarter of a mile apart. If the steam vessels were in such a position that they could, by observing the rule in passing to starboard, pass each other safely, it might happen, if one of them suddenly put her wheel a starboard, that the other could not discover her change of course in time to avoid a collision either by changing her course, or by stopping. Should I see in the night one or two white lights, either ahead or two or three points on the larboard, according to the usage on the upper lakes and Lake Erie, if I saw the lights low on the water, and not more than one or two lights, and no sparks or other indications, I should infer that it indicated a sailing craft. I knew the steamer Atlantic, was not very intimately acquainted with her, knew her general construction and strength as far as could be seen after a boat was finished. In my judgment, if a loaded propeller should run into the Atlantic, nearly at right angles at her forward gangway, so as to cut through hull into the body of the boat, supposing the propeller to be the Ogdensburgh, with a sharp stem and heavily loaded, a rate, on the part of the propeller, of two or three miles an hour, would sink the steamer. I am not now in the employ of the libellants, or any of them; was once in Eber Ward's employ for about a month, but never received any pay from him for any services. I passed with my vessel into the employ of Col. McKnight, who assumed my payment, and this is all the connection I ever had with Captain Ward, or with any of the libellants.

On cross-examination. Knows the north shore course from Long Point to Point au Pelee; it is west-southwest from Long Point to Point au Pelee on the way up. A propeller running down on a course of northeast by east, meeting a steamer on the course above specified, their lines of direction would cross on meeting, at an angle of one point on the compass. Supposing the vessels to be a propeller and steamboat running on the above courses; if the propeller should make the lights of the steamboat 2½ points off the starboard bow, and three miles distant, and supposing these two vessels to be the Ogdensburgh and Atlantic, the proper course for the propeller would be to watch the steamer's lights for a short time, and to continue on her course. If the light closed in upon me from the steamer, so as to bear more directly, or directly ahead, then (in reference to the above course) if the light closed in upon me I

should endeavor to pass on the starboard head. If after I had sheered off, and saw that she was crowding on me, while I had sheered off from one to three points, I should consider it to be my duty to stop. Running on the above courses and being on the propeller, I should at a distance of three miles, and the steamer being 2½ points on my starboard bow, see the steamer's green light. The boats being three miles apart and making the lights 2¼ points on the starboard bow, and both boats keeping their course, and the steamer running sixteen miles an hour, there could not be a collision without one of the boats changing her course. Supposing the vessels in the above position, the steamer running sixteen miles an hour, and the propeller six miles, the steamer would intersect the wake of the propeller and would pass under her starboard quarter from a quarter to half a mile apart, when she crossed that wake. Supposing myself on the steamer, and the vessels both in the above position, and seeing something ahead, and in a foggy night, I should let her run on a full head of steam, but have an officer by the bells ready to stop her when necessary. If I found myself approaching this propeller, and in danger of coming in contact with her, and could not determine her position, I should stop my boat and then back her. In such a position I should run as far as I thought was safe, with full head of steam, but would not think it my duty to run nearer the propeller more than half a mile. If I could not determine her position in reversing engines and stopping headway, the Atlantic would be able to stop full one-third quicker than the Ogdensburgh, both vessels running at their usual speed. From the time the bell on the Atlantic to stop was rung, supposing the engineer standing by and obeying the bell as fast as they usually do, it would be hard to stop her less than within a third of a mile. Should think she might be stopped within that distance. A steamer is decidedly easier to handle than a propeller. I have been master of a one-wheel propeller, and know the difficulty in handling such a craft. The Ogdensburgh is a one-wheel propeller. It takes to stop an ordinary one-wheel propeller, if using usual dispatch, as near as I can arrive at it, a distance from one-quarter to three-quarters of a mile. (Mr. Lathrop objects to any testimony as to the time it takes to stop a one-wheel propeller, as the witness admits that he knows nothing about the engine of the Ogdensburgh; a one-wheel propeller and one-wheel propellers have different engines, and the time of stopping would depend upon the kind of engine.) The difference of one-wheel engines in respect to stopping of the boat would consist chiefly in the power of the engine. When a one-wheel propeller stops, and as soon as the engine can be reversed, if the wheel turns to starboard to back, it would throw the bow to port. Were I on board of the Ogdensburgh, and was within two hundred feet of the Atlantic, and she crossing my bows, after my headway was stopped, and I knew there was to be a collision, I would not deem it neces-

sary to alter the position of my wheel at all, if the headway of my own boat was stopped. In running a steamboat on a thick, foggy night, with a probability of meeting some other vessel, the position of the officer of the deck would be where he could command his bells at a moment's notice, or else to have some hand at the bells. Suppose the propeller Ogdensburgh and the Atlantic should have a collision, and the Atlantic should receive therefrom a serious injury, it would be the duty of the Atlantic's officer to ascertain, as soon as possible, the damage his boat had received. If there was a remote possibility of his boat getting ashore he should try it. Had she received the injury from the Ogdensburgh spoken of in the deposition, running into her seven feet at the forward gangway, and I being in my proper position, my conduct would depend entirely upon the circumstances of the case; and I do not know of any way in which I can answer the above question properly. The duty of the masters of two vessels like the Ogdensburgh and Atlantic, after receiving a collision, would be, if their own boats were not in a sinking condition, to endeavor to ascertain the injury received by the other, and render assistance if possible.

On re-examination. In the supposed case mentioned in the early part of my cross-examination, where the steamer's lights were supposed to be seen 2½ points on the propeller's starboard bow, and three miles apart, the propeller must have passed the point of intersection of their courses, in order to discover the steamer's light on those courses, and that distance off. All my answers in said cross-examination with reference to seeing the light in that position, are based upon the supposition that the propeller had passed the point of intersection. A steamboat that was weak and badly built, with a powerful engine, running through the whole season on Lake Erie and encountering the worst of weather, could not be run without material injury to the boat, such a boat would in any season be liable to be injured by storms and bad weather, so as probably to need strengthening, and she would not be able to stand it during two seasons without being obliged to undergo material repair.

Cross-examination resumed. Knew of the Atlantic being at one time ashore on Point au Pelee; the effect of running ashore on that point would, in a sea from a heavy gale of wind blowing in certain directions, be apt to pound badly and to injure herself.

H. J. JONES.

Sworn to and subscribed before me this twenty-fourth day of March, A. D. 1853.

WM. D. WILKINS,
U. S. Com'r for the Dist. of Michigan.

Deposition of H. H. Esterbrook, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at the

office of the Clerk of the United States Courts in the City of Detroit on the twenty-sixth day of March, A. D. 1853.

Dep'n of H. H. Esterbrook.

Witness saith: Is of age thirty-three years; resides in Wisconsin; is by occupation a seaman; has been employed as a seaman three years on the ocean and thirteen years on the lakes; has navigated all the chain of lakes except Lake Superior; knows the usages prevailing among persons navigating Lake Erie and the upper lakes, with respect to vessels meeting and passing each other at night. In 1852, on Lake Erie, there existed a settled usage among mariners respecting the carrying of lights at night on vessels navigated by steam; that usage was for steam-vessels to carry a triangular light of green and red—green on the starboard bow and red on the larboard bow. These lights were generally known and recognized among mariners as the "Signal lights" on vessels navigated by steam. These lights were by custom carried in some conspicuous place forward, generally on the top of the pilot-house; by this custom, it was the duty of vessels meeting each other during the night to pass each to the right hand. If I were on a propeller, and should make a red light in front or one side of me at night, seeing nothing but the light, my duty would be to keep the red light open, and lay my course to the right of it. Am acquainted with the course of the North Shore line of boats running from Buffalo to Detroit, between Long Point and Point au Pelee; this exact course is east by north ¾ north in steering towards Buffalo, and in steering from Buffalo, west by south ¾ south. The North Shore steamers cannot steer quite as far north on account of the variation of the compass caused by the attraction on the boat. The course usually steered is from Buffalo southwest by west ½ west, and towards Buffalo east ¾ north. A steamer on this route having passed Long Point should, on a still and quiet night, make a white light from ½ a point to a point on her larboard bow; it would be her duty to port the wheel a little and keep on her course; if she found she was nearing it, to port her wheel; if a propeller, laying her course across the course of this steamer, at an angle of about a point going down the lake, should make a red light, it would be her duty, according to the usage of the lakes, to put her helm aport and go to the right of the red light. In making a red light at night coming towards you, the duty of each vessel would be to go to the right of the red light until they had passed it. Supposing two steam-vessels, situated as above described, and being from a mile to three miles apart, in a still night, should descry each other's lights, if each laid their courses to the right, as required by the usage and custom of the lakes, they could not, by any possibility, come in collision. Supposing one of these vessels to be a steamer running 15 miles an hour, and the other a propeller running eight miles an hour, keeping in their respective courses

safely, and obeying the customs of the lake, they could run down within half a mile of each other, and then, by going to the right, could safely pass. Supposing the vessels to get almost within length of each other, and then each was to put her helm hard aport, they would go safely clear of each other. Should they get very near each other before they were aware of their danger, and one should put her helm aport and the other put her helm a-starboard, a collision would be inevitable. If the steamer should put her helm aport and the propeller starboard, the propeller would strike the steamer head on and at right angles; under such circumstances, it is not good usage, and is in direct violation of the usage of the lake, for the propeller to put her helm a-starboard. In a still night, while the steamer Atlantic is under fifteen miles an hour, and the propeller Ogdensburgh from five to eight miles an hour, the propeller would probably run about once her length before she would feel her helm to turn her much, and would run from three to five times her length before she could be turned at right angles from her original course. Deponent is acquainted with the steamer Atlantic and the propeller Ogdensburgh. It would take the Atlantic from five to eight times her length to turn at right angles with her original course. If I were on a steamer, and should make one or two white lights, and see no other light, I should infer the craft to be a sail-vessel; am acquainted with Lake Erie on the ordinary line of the North Shore boats after they pass Long Point light going west. If, supposing a North Shore boat on their line, about three miles west from Long Point light, going upward, should meet a propeller heading one point across her course, going about northeast, I should say, if the propeller continued her course for a few miles, she would go ashore on Long Point. Supposing the Atlantic to be running under a full head of steam, to be run into by the Ogdensburgh, heavily loaded, at her forward gangway, at right angles, a rate of about from three to five miles an hour on the part of the propeller would sink the steamer. To stop the Atlantic and bring her to a stand when under full headway, would take in time from three to five minutes, and in distance about half a mile. In a steamer like the Atlantic, under a full head of steam, you cannot reverse the engine and make it pass the centre immediately; it requires a little time to let her fall off in speed; you could reverse and back her when she had fallen off in speed about eight miles an hour; am acquainted with the working of propeller engines, having sailed on a double-wheeled one for about two years. There is a good deal of difference between the time of reversing a steamer engine and a propeller engine; a propeller's engine, at her highest rate of speed, could be reversed immediately. Supposing I was on a steamer at night, and saw one or two white lights on my left hand, one point on my larboard bow, I would not regard it as good seamanship, or necessary to security, to stop the engine of the steamer; should I see the signal lights of a steamer approaching me on my larboard bow, at a

distance of a quarter of a mile, I would not regard it necessary for security, according to the usage of the lakes, to stop my boat, but common seamanship and prudence would induce me to put my helm aport a little and keep along on my course. After a collision had occurred that I thought endangered the safety of my vessel, and I was near shore, it would be the part of prudence to try to put the boat on the beach. If I should meet a boat ahead of me not showing any light, so that I could tell on which side she designed passing me, and showing nothing to enable me to tell how she was coming towards me, then I should stop until I could tell how she would come. Knows Captain Petty, late master of the Atlantic; considered him a good seaman; never sailed with him but very little. Knows Mr. Bloodgett, late mate of the Atlantic; knows somewhat of his skill as a seaman; thinks he was a careful and unusually attentive man.

On cross-examination. Have sailed in Captain Ward's employ for four years, and am now in his employ; have never run the Atlantic and knows nothing of her running; never sailed on the Ogdensburgh. Suppose the Ogdensburgh on a course from Ashtabula to Gravelly Bay, of northeast by east, and the Atlantic on a course from Long Point to Point au Pelee, of southwest by west half-west, the propeller should make the steamer's lights 2½ points off her starboard bow at three miles apart, the steamer running at the rate of fifteen miles an hour, and the propeller at about eight. The propeller would head just half a point across the steamer's track at the point of intersection. The two vessels being in same position and at the same rate of speed as above at two miles distance each approaching the point of intersection. I should think there would be a collision. Suppose the propellor Ogdensburgh from Ashtabula to Gravelly Bay, steering northeast by east, and the steamer Atlantic running southwest by west half west, the light of the steamer bearing 2½ points upon the starboard bow of the propeller, and the boats three miles apart, if they each continued sailing on their own courses there could not be a collision. At night, when running on a steamboat, the position of the officer of the deck would be forward, but not necessarily at the bells. The duty to ring the bells appertains to the officer of the deck. In a foggy night with a liability of meeting vessels, the officer of the watch should be on the forward deck around the pilot house, and if it is in a very dense fog where he cannot see ahead at all he should stand by the bells so as to ring them at a moment's notice. Suppose the Ogdensburgh and Atlantic approaching each other on the courses last spoken of should suddenly find themselves within two or three hundred feet of each other, the duty of the respective officers of these boats would be to put their wheels aport and stop their engines. It is very probable that two vessels might come together, but the damage of a collision would be lessened, it would vary the point of contact from five to ten feet, and change the position of the boats in the water. Supposing the same discovery was to be made with these boats a quarter of a mile

apart, all that would be necessary would be to put their helm aport. Being on a propeller and seeing a steamer's light about three miles distance and steering within half a point of a parallel course, and making her light 2½ points on my starboard bow when within three miles distance of her, I should not then consider it my duty to alter the propeller's course unless the steamer altered hers, in which case I should undoubtedly stop. My means of knowing Captain Petty's capacity as a seaman, is that I have been in company with him and have known of his managing his vessel in a pretty tight place; he once had command of a small vessel carrying stone from Marblehead to the "O" on the Canada shore; a sudden squall of wind came up while he was lying at anchor on a lee shore, and the way in which he managed his vessel convinced me that he was a pretty good seaman. I was ashore at the time, observed his vessel, and have every reason to suppose he was on board of her, but do not know that he was on board of her. Went down on the Ocean for one trip last fall as acting mate, while Captain Petty was acting as her master; we got off the "O" when it was snowing and the weather was thick, and I should judge from his conduct on that occasion that he was a pretty capable seaman, and this and the other foregoing instances are the means of my judging of his capacity as a seaman. These things are not uncommon occurrences, and any man in the position of a captain should be able to meet them. There are many foremast sailors who could perform the same things; knows nothing of Captain Petty's conduct in any trying and emergent circumstances similar to the loss of the Atlantic, or other than the instances above mentioned. It would not be the part of a prudent and skilful captain to leave his boat in a sinking condition, with his passengers on board, unless he had more than ordinary reasons for doing so. As captain of the Atlantic with her in a sinking condition I would not take the life boat and leave my passengers on board; such conduct would in my opinion indicate unskilfulness and timidity, unless the captain was incapacitated for duty by some accident. Suppose a boat to be running in a course that the foregoing testimony supposes the Atlantic to be running, it would not be a prudent course to keep the boat straight on the course she was heading under a full head of steam while she was in a sinking condition. The keeping her going in a sinking condition under a full pressure would be to make her fill with water much quicker. My means of knowing Mr. Bloodgett's capacity as a sailor are that I have known him to be employed as a mate three or four years, and he was with me as mate three or four trips on the Cleveland, when I observed his conduct very closely, and thought he attended closely to his duties as mate; these were not trips in bad weather, nor was there any emergency to elicit any extraordinary display of seamanship. From his conduct on these trips I formed the opinion that he was a good sailor; this was after the loss of the Atlantic. Suppose the Atlantic in a sinking condition, cut into her hull some seven feet at her forward gangway,

the boat would be kept afloat longer by stopping her machinery than by pressing it on.

On re-examination. In my testimony where I answered to the hypothesis of defendants' counsel of seeing the lights on the steamer 2½ points on the starboard bow of the propeller, at a distance of three miles westward from the steamer, the position of the propeller must have been at the starboard or north side of the steamer, and the propeller must have been from half a mile to a mile to the northward of the steamer's course. The propeller being in this position must have passed the point of intersection of their courses long before making the lights of the steamer even in a clear night. These vessels running on the course mentioned in my cross-examination, if the steamer's light was seen 2½ points on the starboard bow of the propeller, the steamer's green light would be seen plainly, the red light if seen at all would only be faintly seen, thinks it could not be seen at all. Supposing two vessels starting from the same point, and running on courses varying only a point from each other, and running abreast, they would have to run about forty miles to be ten miles apart. Supposing this steamer and this propeller steering on the courses and in the directions mentioned in my cross-examination, the propeller could possibly make the steamer's light on her starboard bow; by heading to clear her, making the steamer's light within three miles, the steamer's light would appear to be about dead ahead of the propeller, or slightly on her starboard bow. Supposing these vessels running on these courses and steering on these directions, the propeller could not make the steamer's green light until after the propeller had passed the point of intersection of their courses; a glimmer of the green light might possibly be obtained, but nothing more; the red light would be distinctly seen until after the propeller had reached the point of intersection. If by a collision with a propeller a breach of the size of the propeller's bow had been made in the steamer's hull for six or seven feet, there would be no way of stopping or checking the irruption at all. After a collision of such a nature, if land was near at hand it would be the duty of any master of a steamer, if there was any possibility of reaching land, to head his steamer for it as soon as possible; after a breach such as I have spoken of, the fires of the steamer must be put out in from three to five minutes and her engine stopped.

Cross-examination resumed. Suppose the steamer with the injury spoken of in my re-examination and being three or four miles from shore, her captain's first effort should be to get his boat to the beach. It would be the best thing he could do in such a circumstance, knowing the condition of his boat, for the safety of his passengers, to keep her on a full headway for the shore.

W. H. EASTERBROOK.

Sworn and subscribed before me this 26th day of March, A. D. 1853.

WILLIAM D. WILKINS,
U. S. Com'r for the Dist. of Michigan.

Deposition of George E. Willoughby, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at the office of the Cler of the United States Courts in the city of Detroit, on the twenty-[illegible]th day of March, A. D. 1853.

Deposition of George E. Willoughby.

Witness saith: Am aged thirty-one years; reside in Detroit, and by occupation a seaman; have been engaged as a mariner for fifteen years, and master of a steamer on the lakes for nine years; am now master of the steamer Mayflower, running in the same line as the Atlantic, and was master of the Mayflower last summer; was first mate of a steamer for two years before I served as master; besides the Mayflower, I have been master of the steamers Ocean, Atlantic, Canada, and London; am acquainted with the usages of navigation upon Lake Erie. In the year 1850, and previously, among persons navigating Lake Erie, there was an established usage on steam craft respecting the carrying of lights at night. There was a distinguishing "signal light" carried at night on steam vessels, viz: that all steam craft should carry a triangular light on the forward part of the vessel, a red light on the port side, and green light on the starboard side, one angle carried forward. This signal light is one lamp in a triangular frame, presenting one angle forward, at an angle of sixty degrees—the glass on the right-hand side stained green, and on the left-hand side stained red. This light was almost invariably carried on top of the pilot house, and always carried forward in some conspicuous place. There existed a general usage among persons navigating Lake Erie in the year 1850, and previously, with respect to vessels meeting and passing each other during the night. This usage was, for each vessel when approaching each other to port her helm, and pass to the starboard of the other. If I should make in the night a red light, it would indicate to me that the craft carrying that light was steering so as to pass me on the right side, and was going clear of me. If the red light was so seen, we would both presume to be safe. Should I make the green light during the night, it would indicate that the vessel having that light was going to her left, across our bows, and was taking the wrong course. Am acquainted with the usual course of steering of the North Shore line of boats (so called) from Detroit to Buffalo, and Buffalo to Detroit, and have sailed on that route ever since the line was established. The true magnetic course from Long Point up the lake to Point au Pelee, is west by south ¾ south, but the course steered by the steamers varies with the attraction of the compass on the vessels. The apparent course we steer usually varies about ½ a point to a point therefrom. The return route east is just the reverse of the route above stated. If I were upon a propeller sailing down the lake, on a course about one point from the route up, which I have described, and was approaching that course, and I should

make a red light, according to the usage of the lakes, I should port my helm, and keep that red light open one point on my bow. Continuing on the propeller, and finding myself very near the steamer, and keeping that red light in view, and within ½ a mile of her, it would not be consistent with the usage of the lake and good seamanship to put my helm starboard. If I were on the steamer on the course from Long Point to Point au Pelee, and should make a red light about a point on my starboard bow, it would be my duty, according to the usage of the lakes and good seamanship, to port my helm. I should suppose she was going to her right of me, and that we were both pretty safe. If I saw both lights, it would indicate we were approaching each other, and on a straight line, and my duty would be to port my helm and go to the right. Upon making a light when it was not so near me as to indicate immediate danger of a collision, it would not be my duty to stop my engine; stopping the engine in such circumstances is not customary or usual. If a steam vessel has her proper signal lights displayed, I can always, when I can see them, determine which way she is going. In a fine night I can determine this exactly, about three miles off. Supposing two steam craft approaching each other, and I being on one of them, if the other one should put her helm hard a-starboard, at the time they were passing each other, I could not, in the night, determine which way they were swinging. Supposing two vessels to be passing each other in the way described, and, at the time of passing each other, one should put her helm hard a-starboard, while the other should port hers, a collision would unquestionably be the result. If I were on the steamer Atlantic, going on the usual course up the lake, and another steamer was coming down about one point on the left bow of the Atlantic, I would have no reason to expect she would put her helm a-starboard at about the time they were passing each other, it being contrary to the usage of the lakes. The other steamer would in such a case see one red light, and it would be her duty to put her helm aport. She would, by putting her helm a-starboard, expose the Atlantic to the danger of being run into by her; or, should that not happen, and she went clear of the Atlantic across her bows, she would then expose herself to the danger of being run into by the Atlantic. If I were on the Atlantic, and should see the light of a steamer approaching me, and about fifty rods apart one point on the larboard hand, I would not regard it as necessary or good seamanship to stop my engine. I would not do it in ninety cases out of a hundred. In a still night, at fifty rods distance, if I made the light of a steam craft one point on my larboard bow, I would not think it necessary to stop my boat at all, unless I saw an uncertainty of the other boat observing the rules of navigation; but I would consider fifty rods distance, in the night, as close work. If, in a still night, I was coming up the lake in a steamer like the Atlantic, and I should see one or two white lights on the larboard bow, and no signal lights such as steamers carry, I should think it my duty to port my helm

a little, and turn my bow to the right. If I found them coming too near on such a night, if I should see such lights, I would not regard it as necessary, if I was passing what I should of course suppose from such lights to be a sail vessel, to stop my boat. Supposing the steamer going up the lake on the above route, and a propeller going down the lake approaching her on a course about one point on the larboard bow of the steamer, and they should continue those courses respectively, at only a point difference, without any change, until a collision took place, the propeller would strike the steamer at their prows, or a glancing blow at their sides. If, when about coming together, the steamer should put her helm aport, and the propeller put hers hard a-starboard, the propeller would strike the Atlantic a more direct blow and more at right angles. Have sailed the Atlantic as her master a part of the first season; she came out in 1849, for three or four months; have been acquainted with her ever since, up to the time of her loss; have been frequently on board of her, and passed her, when sailing, almost every day; was aboard of her shortly before her accident; was therefore well acquainted with both her hull and machinery. She was, in her hull, a well constructed boat. Have been out with her in hard storms, and considered her a good sea boat. She was well found in tackle, apparel, and furniture, stanch and strong, and behaved well in a storm; her engine was good; never remember of anything happening to her machinery since she first came out. At the time she was lost, I was never acquainted with a better found boat, in all her machinery, buckets, boats, tackles, and everything pertaining to a first class boat, than the Atlantic. The ordinary speed of the Atlantic was about fourteen miles an hour, under an ordinary head of steam. Supposing the Atlantic to be in motion under a full head of steam, she could come to a dead stand in a distance of at least a quarter of a mile. If she was under full headway, it would not be possible to stop her engine instantly, and back her so as to pass its centre; to make the engine pass its centre, you would have to let her speed fall off; you could back her when she had run about twice her length. I cannot, on this point, speak with the same certainty as a practical engineer could. I have seen the propeller Ogdensburgh; have had no experience about managing propeller engines, but only a general knowledge. Supposing the propeller Ogdensburgh, loaded, should come in collision with the steamer Atlantic, striking her nearly at right angles at the forward gangway, a rate of speed of seven or eight miles an hour, on the part of the propeller, would be adequate to break through the steamer's sides, with the bow of the propeller carrying all away before the propeller's bow. If a steamer like the Atlantic should, by a collision with another vessel, have her side carried clear through—say, for instance, by the bow of a propeller—no measures could be taken to stop the breach, or to keep the steamer from sinking. Should such an accident take place, and the steamer four or five miles from shore, the best thing her captain could in good seamanship do, would

be to run his boat ashore. It would be certain that her fires would be put out speedily, and the vessel soon sink, and the boat would have to be put for shore very speedily. The value of the Atlantic at the time of her loss, was about seventy thousand dollars, in my judgment as a sailor. Am not in the employ of any of the libellants, Samuel or Eber B. Ward, or Stephen Clement; have not been in their employ since the fall of 1851.

On cross-examination. Am acquainted with the course run by propellers and vessels from Ashtabula to Gravelly Bay; it is about northeast by north. Cannot state precise course without examining a chart. Suppose the Ogdensburgh running on her course from Ashtabula to Gravelly Bay, and the Atlantic running on her course from Long Point to Point au Pelee, and they should meet each other at or about Long Point, being on the propeller, I would make the steamer's light as I approached her, on the starboard bow of the propeller, about two points on that bow (the distance of the vessels being three miles apart), on these courses their bows ought not to be pointing towards each other; but as they changed their courses, their bows might possibly be pointed towards each other. These vessels, pursuing these courses, the steamer's speed being fourteen miles an hour, and the propeller's seven miles, and at a distance of three miles apart upon the angles made by their courses, and each continuing their course, the propeller would, if they met at the point of intersection of their courses at the same instant, give the steamer a glancing blow. These boats being three miles apart, and in the positions indicated above, if I were on the propeller and should make the steamer's light at that distance, I should keep a bright look out for the steamer. Keeping my course for the time being, and knowing the steamer's course, I would begin to alter my course by porting my helm when within about a mile of the steamer. I do not know that on a fine night I would alter my course at three miles distance, but would make up my mind to port my helm and pass to the right of the steamer. Being on the propeller and seeing the steamer coming up without varying her course, it would increase the necessity of my porting my helm more quick than otherwise. It would be the steamer's duty to port her helm, as well as I to port mine. Were I on the propeller Ogdensburgh, bound for the Welland Canal, and should make a steamer's light $2\frac{1}{2}$ points on my starboard bow, and three miles distant, I think I would not keep on my course with the propeller. Were I on the steamer Atlantic, in the same position to the propeller above stated, I should port my helm, dependent on the proceedings of the approaching propeller.

Question. Suppose the steamer and propeller above stated, in the position of the light of the steamer bearing $2\frac{1}{2}$ points on the starboard bow of the propeller, and at three miles distance, and each vessel keeping their course and running at the speed of fifteen miles an hour for the steamer and seven for the propeller, could these two boats, each keeping their course, come into collision?

Answer. It is very possible they could not, if each kept on its course. If the propeller had passed the steamer's bows to the northward in her course, it would be her right to keep on her course without porting her helm to go across the Atlantic's bows again. Suppose the Atlantic three or four miles off Long Point, with the injury above spoken of in her hull, from the bows of a propeller, making a hole as large as the propeller's bows, should think she would sink down to her fires in five or ten minutes. The propeller running into the Atlantic's hull about seven feet, she would sink to extinguish the fires in from five to ten minutes. The Atlantic had not quite got her full breadth of beam at her forward gangway. With the knowledge by her officers of the Atlantic's having received such an injury as above described, it was their duty to get as near the shore as possible, but they could not at a distance of three or four miles from shore have got the steamer to shore. Thinks that in case of an injury where the Atlantic received hers the running of the boat not precipitate her sinking. The night of the 20th of August, 1852, was a fine, calm night, a little smoky. In such a night in meeting vessels, the officer of the deck should be on the promenade deck near the pilot house. If he saw the lights of a vessel approaching him he should stand by his bells. The night above alluded to was a very calm night, scarce enough wind to move a sail vessel; at a distance of three miles on such a night, seeing lights on the water and two vessels approaching each other, it would be difficult on one vessel to distinguish whether the other was moving fast or slow. On such a night, and being unable to ascertain whether the lights approaching were on a sail vessel or not, it would be sufficient at three miles distance to port your helm a little. If on such a night on a steamer, I found the approaching lights drawing nearer me, with a probability of a collision, I should deem it my duty to stop immediately. It is my practice always so to direct my men. (Mr. Lathrop objects to the testimony as to what is Captain Willoughby's practice.) Where two steam vessels find themselves crossing each other, and ascertain that there is danger of a collision, their duty would be both to stop. Knows of the Atlantic's being aground at one time on Point Pelee, and went myself to her assistance when she had been on about twenty-four hours. This was in the second season that she run. It blew very hard when she went on, but there was fine weather the morning afterwards. Her going on to the Point in such weather did not injure her, in my opinion, in the least. Knows of the Atlantic in the fall of 1850 breaking one of her arches in a gale of wind. I do deem myself a competent judge of the value of a steamer like the Atlantic, to any one owning her, as classed with other steamers, and as knowing the cost of things. The annual deterioration in value of a steamer when running (including both wood work and iron work) is twelve per cent. a season. The effect of putting the Atlantic's wheel hard aport, would be to turn her round in an opposite direction. By putting her wheel hard aport

you could turn her at right angles to her course in a distance of half a mile. By putting wheel simply "aport" it would turn her ultimately, but in a longer distance, say a little more than half a mile. On a fine clear night when I meet a boat of our own line, we sometimes keep each on our own course without altering our courses; this is only on fine nights, and when we know them to be boats of our own line, and when their course does not lay near mine; but this is merely the practice with our own boats, and is a private understanding with the captains of our line. The two boats being on the courses above indicated, and the propeller on the starboard bow of the Atlantic, and having crossed the line of intersection sufficient for to allow this steamer, keeping her course, to pass under her stern, if in that position the Atlantic was to hard port her helm, it would throw her across the track of the propeller.

On re-examination. Whatever the position of the vessels were, and whatever the directions they were steering, if the propeller made the steamer's red light, it was her duty to put her helm aport and to go to the right of the red light. When I spoke in my cross-examination of the propeller's having passed the steamer's bows to the northward, I refer to a position on which a north and south line would pass through both vessels or nearly so. An officer running a steamer would be in discharge of his duty if he was on the forward deck in the vicinity of his bells, without being directly by them, unless he apprehended immediate danger. There were bells in the Atlantic's wheel-house, within reach of the wheel-man. Though the light of a steamer I should make was a green light, and on my starboard bow two points, it would be my duty still to port my helm, and pass to the right of her.

Cross-examination resumed. On such a night as the night of the collision, the officer of the deck should be at his bells, when the vessels approached within a quarter of a mile of each other. And further this deponent saith not.

GEORGE E. WILLOUGHBY.

Sworn to and subscribed before me this 26th day of March A. D. 1853.

WILLIAM D. WILKINS,
U. S. Com'r for the Dist. of Michigan.

Objection by def'ts' counsel to further cont'ce.

March 28th, 1853.

The defendants' by their counsel, desire to have entered that they appeared before the commissioner on this examination at two o'clock P. M. (to which date it had been adjourned from March 26th), and remained until half past three P. M., and the libellants or their witnesses not appearing, they now object to any further proceedings under the preceding notice, and further object to any further ad-

journment by the commissioner. Whereupon this examination is adjourned by the commissioner to seven o'clock this evening.

W. D. W.

The deposition of Thomas T. Hudson, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at the office of the Clerk of the United States Courts, in the city of Detroit, on the seventh and twentieth days of April, A. D. 1853.

Dep'n of Thos. T. Hudson.

Witness saith: Am aged thirty-four years, reside in Detroit, Michigan; am by occupation a mariner; have served in that business about nineteen years, and for twelve years of that time upon the lakes. Have served upon the lakes first as mate of a sail vessel, then as master of a sail vessel, then as second mate on a steamer, and for the last three years as first mate of a steamer. Am now mate of the steamer May Flower; served as second mate of the steamer Atlantic, during the first season she came out, being the year 1849; during the twelve years I have mentioned, I have sailed some part of every year on Lake Erie; am acquainted with the customs and usages of sailing that prevailed in the year 1852, upon Lake Erie. There was a recognized and well known custom on Lake Erie during that year, upon vessels propelled by steam, relative to carrying lights. This usage was to show a triangular light, showing a red light on the port side and a green light on the starboard side. This light was known and recognized as the 'signal light,' carried in the night on vessels propelled by steam. This light was carried forward in some conspicuous place, generally on the top of the pilot house. In the year 1852, and previously, there was a recognized and established rule on Lake Erie, about vessels approaching, passing each other during the night. This general and settled rule was, in case of meeting a boat ahead, always to port the helm and go to the right. Being on the lake in a still night, and making the red signal light on a vessel approaching me, if I saw any other bright lights about it, I should suppose it to be a steamboat. In an ordinary still night, if I was able to see a red light three miles off, I would ordinarily be able to determine whether it was on a steamboat or not. Knows the route that the Atlantic was accustomed to sail from Buffalo to Point au Pelee; am also acquainted with the course from Cleveland to Gravelly Bay. Being on a propeller bound from Cleveland to Gravelly Bay, and in the neighborhood of Long Point, I should make a steamer's red light approaching me, as a skilful seaman, and in accordance with the usage of the lakes, I would (if I expected to go clear of her without changing my course) keep on my course, if not, I should port my helm and keep to the right. It would be my duty to watch her red light, and keep that red light open. Supposing that I had ap-

proached very near the steamer, say within a few hundred feet, and seeing her red light, it would not be consistent with good seamanship or the usage of the lake to put my helm a-starboard. The effect of putting my helm a-starboard would probably be a collision, and would probably turn me on to instead of away from the course of the steamer. Being on a steamer on her way from Buffalo to Detroit, having just passed Long Point light, and making one or two white lights, a point or two points on my larboard bow, that would indicate to me, if I saw but one, that it was on a sail vessel; if two and close together, it might indicate two sail vessels together. I would be in doubt as to what it was. If I saw two white lights three miles off, I should not suppose it to be on a propeller, seeing such a light in the position above spoken of, a point or two on my larboard bow, if I changed the course of the steamer to pass and avoid the other vessel, my duty would be to port my helm. Being on a steamer and making the lights of a propeller, between one and two points on my larboard bow, approaching me, I should, if she was a point and a half on my larboard bow, keep on my course, supposing there would be room to pass, especially off Long Point, but if I changed my course it would be my duty to port my helm. Supposing myself to be proceeding on my course with the steamer, and the propeller on my larboard bow, one or two points, and we had got to within two or three hundred feet of each other, and coming on, I should port my helm and expect her to port her helm, as that would enable us to pass each other. These vessels being in the above position, if both of them should port their helms they would go clear of each other. In such a position it would be the duty of both vessels to port their helms, according to the usage of the lakes, with an opportunity for each steam vessel to pass each other by porting their helms, and in a still night it would not be my duty to stop or back my boat. Good seamanship and the usage of the lakes would not require such a course. I should only do it when it was apparent that the other boat was about to neglect her duty. The ordinary and proper station of the officer of the deck of a steamer, in the night, is on the forward deck. Was acquainted with and served for a year upon the steamer Atlantic, the boat owned by the libellants, the Messrs. Ward and Captain Clement; continued acquainted with the Atlantic from that time until her loss. Have been employed all that time in the same line, accustomed to see her every week, and to be on board of her every year. The Atlantic was considered a good stanch sea-boat, so I considered her to be. Knows that during her first season and afterwards, until her loss, she was very regular in making her trips, rather more regular than any other boat in the line. From the time she came out until her loss, she formed one of the boats of the North Shore line, making ordinarily two trips a week. This line made daily trips each way, during the season, from Buffalo to Detroit, from 1849 up to the time of the Atlantic's loss. The trips and times of passage of these boats

and their routes during the year 1852, were a matter of notoriety on Lake Erie, and were generally known on other vessels navigating that lake. It is the duty of persons navigating the lakes when near or crossing the known and accustomed routes of steam vessels navigating these routes to keep a good look out for vessels navigating these routes. Any skilful seaman acquainted with the business of navigating Lake Erie in the summer of 1852, making a steamer's light on the course of the North Shore line of steamers, would ordinarily know the route such steamer was on. Am not in the employ of the libellants, Messrs. Wards, or Captain Clement, and have not been in their employ since the year 1851. The bells of the Atlantic were so rigged that they had access to them in the pilot house, and on top of the pilot house also.

The cross-examination of Thomas T. Hudson having been heretofore, by consent of counsel upon both sides, adjourned until this twentieth day of April, 1853, and the said Thomas T. Hudson says, on cross-examination: Has never sailed either a steamboat, propeller, or vessel, direct from Ashtabula to Gravelly Bay; thinks the usual course steered by such craft is northeast by east, but is not positive as to the exact direction. The true course between these points would be the same for vessels propelled by steam as for sail vessels. The usual course for a steamer running on the North Shore route from Buffalo to Point au Pelee would be about southwest by west, three-fourths west. The usual course for steamers on the North Shore route, from Long Point to Point au Pelee, is the same as above stated. If I were sailing a propeller on its course from Ashtabula to Gravelly Bay, and should make a red light of a steamer 2½ points over my starboard bow, and within three miles distance of me, my duty, as a seaman, would be to put the propeller's helm aport. If I were on the steamer, in like circumstances, I should port my helm; also being on the propeller in the above circumstances, and making a steamer's green light in the position above stated, I should keep on my course: and would do the same were I on the steamer, and saw the green light of a propeller on my starboard bow in circumstances as above stated.

The Atlantic could be turned at right angles with her course by putting her helm hard aport in a distance of a little less than half a mile.

THOMAS T. HUDSON.

Deposition of Green B. Morrell, taken before R. P. Parsons, United States Commissioner for the District of Ohio, at the City of Cleveland, on the twenty-eighth day of February, A. D. 1853.

Dep'n of Green B. Morrell.

Witness saith: I am forty-two years of age, and have been a sailor on the salt water and upon the western Lakes for the most of the time since I was twelve years old. I was acquainted with the steamboat Atlantic, that was said to have been sunk by reason of

her collision with the propeller Ogdensburgh in August, 1852. I was present twice, and examined her while she was upon the stocks, and was on board of her repeatedly after she commenced running. I considered her decidedly too light a boat for the navigation of the lakes, that is, her timbers were too light for a boat of her tonnage, and they were too far apart; she would have answered well for a river boat, as she was easily handled in smooth water, but was not strong enough for the lakes in a rough sea, in my judgment. I have known Captain Petty, late master of the Atlantic, some six or seven years, off and on. On the 20th of November last, I saw Captain Petty at Detroit, on board the steamer Ocean, which boat he then temporarily commanded, in the room of Captain W. Bride, who had left in consequence of sickness. We had some conversation, at that time, in regard to the collision. I asked Captain Petty if the lights of the propeller were seen from the Atlantic before the collision; his answer was, as near as I can remember, in these words: "We saw her from five to ten minutes before the collision." I asked how fast he was running, and he said seventeen miles an hour. He said they took her for a propeller, but owing to the thickness of the weather did not know how she was steering. He said the Atlantic was steering W. S. W. when they made the propeller's lights.

Question by Mr. Spalding, attorney for claimants.

Number 1. Have you at any time sailed upon the Atlantic, and if so when and where?

Answer. A year ago last summer, that is, the season of 1851, I made a passage upon her as a passenger. I went, by invitation, upon her from Buffalo to Detroit.

No. 2. Suppose her to be running in smooth water at the rate of seventeen miles per hour, and laying her course W. S. W. or S. W. by W. $\frac{3}{4}$ W., by putting her helm aport for half a minute, and then hard aport, where would she head, in your judgment, in another minute, the helm being jammed "hard aport" during this last minute.

Answer. She would have headed N. N. W., or perhaps to the north'ard of it. She might have been around as high as north, in all probability would have been in that time. In going so fast, she would turn very rapidly.

No. 3. Upon the hypothesis that the propeller was laying her course N. E. by E., and running eight miles an hour, and the Atlantic laying her course S. W. by W. $\frac{3}{4}$ W., and running seventeen miles an hour, distance from each other three miles, with the Atlantic's light made from two to three points over the Ogdensburgh's starboard bow, and the Ogdensburgh's light made from one-half to one point off the Atlantic's larboard bow, what would have been the result if each vessel had kept her course?

Answer. Under those circumstances, steering their courses, the steamboat would have passed under the stern of the propeller, half a mile or more distant.

No. 4. Under these circumstances, would any known rule of navigation have required the propeller to port her helm?

Answer. There would be no necessity for porting her helm; she should have kept her course, and if she found they were nearing each other, should have slackened her speed.

No. 5. You may state how you would have managed the steamboat Atlantic, in a night somewhat smoky, under the aforesaid circumstances, from the moment you discovered the propeller's light.

Answer. In the first place, I should have kept on my true course until I ascertained how the other vessel was coming. If her position was doubtful, and the vessels appeared to be approaching each other, I should have deemed it my duty, as a prudent man, to have stopped my engine, and perhaps reversed it. I have once or twice in my life been under the necessity of stopping my engine, and backing strongly, to avoid a collision, and have avoided it in that way.

No. 6. On the same night of the collision between the Atlantic and Ogdensburgh, were you out upon Lake Erie, and if so, in what part of the lake, on what vessel, and how far distant could you see a vessel's light, at about 2 o'clock on the morning of the 20th?

Answer. I was upon the lake at that time. I left Dunkirk on the night of the 19th of August, 1852, at 7½ o'clock for Detroit, on board the steamboat Niagara, of which I was mate. There was no part of the night but that you might discover a vessel's light three or four miles off. The weather was fine and calm, and the water smooth. (Mr. Tilden, counsel for libellants, objects to so much of the above deposition as purports to give the conversation of Capt. Petty.)

Cross-examined by Mr. Tilden for Libellants.

No. 1. State what is the course steered by steamboats passing from Buffalo to Detroit, off Long Point light.

Answer. About W. S. W. is the usual course steered.

No. 2. What boats navigating Lake Erie pass up and down within six or seven miles of Long Point light?

Answer. At that time there was the Atlantic, Ocean, and May Flower. I think they were the boats.

No. 3. State whether boats in fair weather ever pass near Long Point, except those boats going to Detroit or Toledo, or in that vicinity from Buffalo.

Answer. Sandusky boats would go very nearly the same track.

No. 4. State if the course of all these boats would be the same in passing Long Point light.

Answer. There would be very little variation, perhaps a mile or more the course would be about the same.

No. 5. Had you been aboard the propeller Ogdensburgh, and had discovered the larboard light of the steamboat on your starboard bow, what course would you conclude the steamer was steering?

Answer. I do not know as I could have told until I had run some little time and taken her bearings.

No. 6. Had you discovered a steamer then at all, on that night, would you not have concluded she was passing up the lake as far as Toledo at least, and was steering her usual course W. S. W.?

Answer. If I had seen her steering in that direction, I should have taken her for a steamer bound up the lake.

No. 7. If you had been on board the Ogdensburgh that night, and had seen nothing but the larboard light of the Atlantic, would you have concluded that she was running towards the Ogdensburgh?

Answer. I could not tell from the first place how she was going. I should have to make some calculation, and take the bearings of the light to see how she was going.

No. 8. If you had seen this light of the steamer two points over the starboard bow of the propeller, what then would you have concluded?

Ans. I should have concluded she was steering her true course, up the lake, and would leave the propeller at her starboard hand.

G. B. MORRELL.

Deposition of Charles Marsden, taken before R. P. Parsons, United States Commissioner, for the District of Ohio, at the City of Cleveland, on the twenty-eighth day of February, A. D. 1853.

Deposition of Chas. Marsden.

Question by Mr. Spalding, att'y for claimants.

No. 1. What is your age and occupation?

Ans. I am thirty-three years of age, and am a sailor by profession.

No. 2. You may give your experience in the navigation of steamers and propellers upon the lakes.

Ans. I have sailed upon the lakes twenty-two years. I have never sailed a side-wheel steamboat, but have commanded sail vessels and propellers. I have commanded sail vessels and propellers fifteen years; during the last three years have sailed a propeller, part of the time in the employ of Wick and Morgan, and Hubly, Hughes, & Co. I am now building a propeller for myself and others, Holt, Palmer, & Co., of Buffalo.

No. 3. In your opinion, which can be handled with the most ease, and with the greatest facility, a side-wheel steamboat, or a screw propeller?

Ans. My opinion is, that a side-wheel steamboat can be handled with the greatest facility.

No. 4. Upon the hypothesis that the propeller Ogdensburgh, during the night of the 19th of August last, while steering for the mouth of the Welland Canal, her course N. E. by E., made the light of the steamer Atlantic (then out of Buffalo for Detroit) from two to two and one-half points off the starboard bow, distant about three miles, what sort of management on the part of those who had charge

of said propeller, did ordinary prudence and a due regard to the safety of the two vessels require?

Ans. I should have kept my course until I found the way the steamer was coming. If I then thought there was likely to have been a collision, I should have stopped the propeller, and, if necessary, should have backed and stopped her headway, and remained in that position until I found the danger was past, and I could run by with safety.

No. 5. If, under a state of circumstances like those set forth in the last question, the Atlantic made the light of the propeller, three-fourths of a point off her larboard bow, the Atlantic then steering S. W. by W. ¾ W., and running seventeen miles an hour, what sort of management, on the part of the officer of the steamboat, did ordinary prudence and a due regard to her own safety and the rights of the propeller require?

Ans. I should have kept my course until I found the position of the propeller. If I then thought it necessary to stop to avoid a collision, I should have done so. If I found the position of the propeller doubtful, I should have checked the speed of the boat in the first instance, until I could have become satisfied.

No. 6. If each vessel had known the course of the other, at the time these lights were discovered, were they required at that time, by any known rule of navigation, to have varied their courses by porting their helm?

Answer. I should think not.

No. 7. Under the circumstances detailed above, if the Atlantic and Ogdensburgh had each kept her course, what would have been the result, so far as a collision is concerned?

Answer. If such vessel had kept her course, I think there would have been no collision. The steamer would have passed under the stern of the propeller, probably distant about a half a mile; perhaps two-thirds of a mile.

Cross-examined by Mr. Tilden, Att'y for Libellants.

No. 1. You say if each vessel had kept her course there would have been no collision. Now, upon the hypothesis that the propeller did keep her course, how much must the steamer have varied hers in order to bring about the collision, according to the best of your knowledge?

Answer. I do not know exactly; it is a hard question to answer, but I think she must have ported her wheel about a point. I do not pretend to speak with any exactness; probably would be something over a point.

No. 2. Inasmuch as the propeller struck the steamer near her forward gangway, if the propeller had varied her course by putting her helm aport as the steamer did, would there have been any collision?

Answer. I do not think there would; not if she had ported her helm when the lights were first discovered.

No. 3. How would it have been had she put her wheel aport at the same time the steamer did?

Answer. I do not know as I can answer that question. If I could tell when the Atlantic put her helm aport, then I could answer it.

No. 4. If, when these vessels were half a mile apart, the propeller had put her helm aport so as to change her course to the extent you suppose the steamer to have changed her course, would there have been any collision?

Answer. Well, I should think not.

No. 5. Had you been on board the propeller on the night of the collision, six miles off Long Point light, which way would you conclude the steamer to be steering, if you knew it to be a steamboat?

Answer. If I knew it was a North Shore boat, I should have supposed she was steering W. by S. ¾ S.

No. 6. Would you not conclude at once, seeing the light of a steamboat in these waters, in fair weather, that it was a North Shore boat?

Answer. If I knew it was a steamboat, I should have concluded it was a North Shore boat.

No. 7. If you was on a propeller steering N. E. by N., and after you had ascertained this was a North Shore boat, steering W. by S. ¾ S., and discovered her light two points off your starboard bow, what course would you take to avoid a collision?

Answer. I should have kept my course so long as the steamer kept hers. If I discovered she was nearing us fast, I should have checked down, as I said before.

No. 8. What propeller did you sail last year?

Answer. The Alleghany, belonging to a different line than that of the Ogdensburgh. I never did sail for Chamberlin and Crawford.

CHARLES MARSDEN.

Deposition of Albert B. Conkey, taken before R. P. Parsons, United States Commissioner for the District of Ohio, at the City of Cleveland, on the 28th day of February, A. D. 1853.

Deposition of Albert B. Conkey.

Question by Mr. Spalding, att'y for claimants.

No. 1. What is your age and occupation?

Answer. I am thirty-six years of age. My occupation that of a sailor. Have been a sailor for eighteen years.

No. 2. You may give your experience in the navigation of steamboats and propellers upon the lakes.

Answer. I have been mate and master of propellers and steamboats for thirteen years. For the last two years have been master of the propeller Buffalo.

No. 3. Which can be handled with the most ease and the greatest facility when under way, a steamboat, carrying passengers, or a propeller, carrying freight?

Answer. A steamboat, much the most readily. She can be stopped

quicker, and turned from her course more readily than a propeller, by reason of her having a more powerful engine and going quicker through the water.

No. 4. Upon the hypothesis that the propeller Ogdensburgh, during the night of the 19th of August last, while steering for the mouth of the Welland Canal, her course N. E. by E., made the light of the steamer Atlantic (on her way from Buffalo to Detroit) from two to two and one half points off the starboard bow, distant about three miles, what sort of management on the part of those who had charge of said propeller did ordinary prudence and a due regard to the safety of the two vessels require?

Answer. In the first place, I should take the bearings of the light. If I could not tell by the bearings which way she was going, I should check. If I saw there was any danger of a collision, I should stop my boat, and perhaps back her; I should not change my course under these circumstances.

No. 5. If, under a state of circumstances like those set forth in the last question, the Atlantic made the light of the propeller three-fourths of a point off her larboard bow, the Atlantic then steering her true course, S. W. by W. ¼ W., and running seventeen miles an hour, what sort of management on the part of the officers of the steamboat did ordinary prudence and a due regard to her own safety and the rights of the propeller require?

Answer. If I was an officer of the deck I should take the bearings of the light of the propeller, and keep my course. If I saw that the light altered its bearings, and was crossing our bows, I should check by slowing the engine until I found out the position of the other vessel, and if I found out that we were nearing the vessel fast, I should stop. If, after due examination, I found we were not crossing each other, I should keep on my course. This course I should consider the safe and prudent one and the duty of the officer of the deck.

No. 6. Under the circumstances detailed above, if the Atlantic and Ogdensburgh had each kept her course, what would have been the result, so far as a collision is concerned?

Answer. I should think they would have passed clear of each other. The steamer would have passed under the stern of the propeller, about half a mile distant, I should think, and, of course, there would have been no collision.

Cross-examined by Mr. Tilden, Att'y for Libellants.

No. 1. Had you been upon the steamer, and had first seen the light of the propeller one point off your larboard bow when you were within five minutes of her, what would you have done?

Answer. I should have stopped and backed my vessel, that is, if I was within five minutes of her.

No. 2. State if the propeller's light was discovered over the larboard bow of the steamer when they were two miles apart, and both

steering the course above stated, if they had each put their helm aport would they not have passed clear of each other?

Answer. If each vessel had put their helm aport they would have passed each other.

No. 3. Was it not the duty of both vessels to have ported their helms, under the hypothesis and state of facts the distance within two miles of each other?

Answer. I should have thought it the duty of the propeller to have kept her course, as her regular course lay across the bows of the steamer, as the steamer was steering when first discovered.

No. 4. When within two miles of each other and within five minutes of meeting, and when the propeller only saw the red light of the steamer, and the steamer saw the green light of the propeller only, was it not the duty of each to put their helm aport?

Answer. I think not; I think it was the duty of the steamer to have stopped, or put her helm a-starboard, as she must have known from the green light that the propeller was crossing her bows.

No. 5. Suppose both saw the red light; what then?

Answer. If they both saw the red light, it was their duty to put their helms aport, because it would signify that each vessel was passing on the right side; these lights are on an angle of sixty degrees, but the propeller, to have shown her red light, must have been heading around to the south shore.

No. 6. Do you agree with Captain Caldwell in regard to the distance a green light can be seen in a clear night—he saying that it can be seen from a half a mile to a mile and a half?

Answer. I do. A. B. CONKEY.

Deposition of John Caldwell, taken before R. P. Parsons, United States Commissioner for the District of Ohio, at the City of Cleveland.

Dep'n of Jno. Caldwell.

Witness saith:—

Question by Mr. Spalding, att'y for claimants.

No. 1. What is your age and occupation?

Answer. I am forty-four years old, by occupation a sailor, have been so for thirty years.

No. 2. You may give your experience in the navigation of steamboats and propellers upon the Lakes.

Answer. I have been master of sailing vessels and steam vessels for twenty-five years.

No. 3. Which can be handled with the most ease and the greatest facility, when under way, a steamboat carrying passengers, or a propeller carrying freight?

Answer. Under ordinary circumstances a steamboat can be handled much more readily; a steamboat under headway can be stopped and backed much more readily than a propeller.

4. Upon the hypothesis that propeller Ogdensburgh, during the

night of the 19th of August last, while steering for the mouth of the Welland Canal, her course N. E. by E., made the light of the steamer Atlantic on her way from Buffalo to Detroit, from two to two and one half points off the starboard bow, distant about three miles, what sort of management on the part of those who had charge of said propeller, did ordinary prudence and a due regard to the safety of the two vessels require?

Answer. Well, sir, I should keep my course, and observe the steamboat to see if she was approaching any nearer. If I found she was coming near, and likely to be a collision, I should check my boat, and if necessary, stop and back her.

No. 5. If under a state of circumstances like those set forth in the last question, the Atlantic made the light of the propeller three-fourths of a point off her larboard bow, she, the Atlantic, then steering her true case S. W. by W. ½ W., and running seventeen miles an hour, what sort of management on the part of the officers of the steamboat, did ordinary prudence, and a due regard to her own safety and the rights of the propeller require?

Answer. In the first place, I think the steamer should have watched the propeller's lights to see if she was coming parallel with them, or crossing her bows. If she found she was coming parallel with them she might keep her course with safety, and if she found her crossing her bows the officer of the steamboat should have checked her engine, and if necessary, stopped and backed. I have always considered it the duty of the officer in charge of the deck of any steam vessel to use these precautions.

No. 6. Under these circumstances detailed above, if the Atlantic and Ogdensburgh had each kept her course, what would have been the result so far as a collison is concerned?

Answer. I have not made any scale of it, but in my judgment the Atlantic would have passed a half a mile or perhaps more across the stern of the propeller; there could not have been a collision.

Cross-examined by Counsel for Libellants—Mr. Tilden.

No. 1. If when the propeller three miles off saw the larboard light of the steamer she had bore away two points to the right, how would the vessels have passed each other?

Answer. That is a very hard question to answer. The steamer might have been in a variety of positions and still have shown the larboard light; at the distance of three miles she would have shown the red light at any rate; on reflection, supposing the vessel to be placed in the position of the previous question, I should think that it would run the vessels together, or, at least, very nearly so, that is if the steamer had kept her course.

No. 2. Had the propeller so altered as to have kept the red light alone of the steamer in sight, would the vessels have come together?

Answer. Under the circumstances above detailed, if the propeller

had so steered as to have only seen the red light of the steamer, admitting that she also had a green light, in my judgment there could have been no collision.

No. 3. How far can you see a green signal light in fair weather?

Answer. From a half mile to a mile and a half.

No. 4. What vessel was you on last season?

Answer. I was master of the propeller Wisconsin, running in the same line as the Ogdensburgh, and built exactly like her.

Direct Examination resumed.

No. 1. Please to tell how these signal lights are situated on board of steamers, and under what circumstances will an approaching vessel be enabled to see the one light and not the other, when both are burning?

Answer. The lights are usually carried on the top or on the front of the pilot house, above the top of the hurricane deck; the lights are set in a square lantern, one corner placed in front so as to present a triangle, a red glass is set in the larboard side which shows a red light, a green glass in the starboard side which shows a green light. These are the signal lights usually carried on board steam vessels. I have seen the lantern itself made triangular. The red light can be seen in a clear night from three to four miles, and a green light, I think, cannot be seen more than from a half mile to a mile and a half. I have sometimes had vessels come within a half mile of me before I could see the green light. You may get the vessels in such a position as to hide one of the lights entirely, an angle from twenty-five to thirty degrees will hide one light. The approaching vessel being so far to the right or left of the vessel bearing the light so as to make such an angle.

JOHN CALDWELL.

Deposition of James Connoly, taken before R. P. Parsons, United States Commissioner for the District of Ohio, at the City of Cleveland.

Deposition of Jas. Connoly.

Witness saith:—

Question by Mr. Spalding.

No. 1. What is your age and occupation?

Answer. I am thirty-four years of age, and a sailor by profession.

No. 2. How long have you commanded a propeller?

Answer. For the last three years. Before that I was on sail vessels. Have been upon the Lakes twenty-two years.

No. 3. Upon the hypothesis that upon the night of the 19th of August, the propeller Ogdensburgh, when running for the mouth of the Welland Canal, steering N. E. by E., made the light of the Atlantic steamboat coming from Buffalo, from two to two and a half points off her starboard bow, distant as supposed about three miles,

what would you have done if you had had charge of said propeller? would you have kept your course or changed?

Answer. I should have kept my course.

No. 4. If you had kept your course, and then discovered the light of the steamer nearing you fast, what would you have done?

Answer. I should have checked her first, and then have stopped her, if I thought they were coming too close together. If necessary I should also have backed her.

No. 5. If the steamer Atlantic found herself approaching rapidly the light of the propeller under circumstances as detailed above, what should she have done as a precautionary measure?

Answer. She should have stopped and backed if necessary. Common prudence, in my opinion, would require it.

No. 6. If the course of the Atlantic, when discovered by the propeller, as mentioned in Question No. 3, was S. W. by W. $\frac{3}{4}$ W., what would have been the result, so far as regards a collision, if each vessel had held on her course?

Answer. There could not have been a collision. The steamer would have passed some distance to the south'ard of the propeller; perhaps half a mile.

JAMES CONNOLY.

Deposition of James M. Lundy, taken before R. P. Parsons, United States Commissioner for the District of Ohio, at the City of Cleveland.

Deposition of Jas. M. Lundy.

Witness saith:—

Question by Mr. Spalding, att'y for claimants.

No. 1. What is your age and occupation?

Answer. I am forty-one years of age, by occupation a sailor. I have followed the Lakes for twenty-nine years.

No. 2. You may give your experience in the navigation of steamers and propellers upon the Lakes.

Answer. I have sailed a steamboat as master for the principal part of twenty-three years. Have sailed a propeller one year.

3. What steamer did you command last?

Answer. The steamboat Southerner.

4. Have you ever seen the steamboat Atlantic?

Answer. I have seen her frequently.

5. From your experience in the management of steamboats, will you please to say within what distance the steamer Atlantic could have been stopped from her top speed?

Answer. In from two to three lengths, her heading might be made to cease entirely.

6. Upon the hypothesis that on the night of the 19th of August last, the propeller Ogdensburgh, when running for the mouth of the Welland Canal, and steering N. E. by E. with a speed of eight miles

an hour, made the light of the Atlantic steamer coming from Buffalo, from two to two and a half points off her starboard bow, distant as supposed about three miles, what would you have done if you had had charge of said propeller?

Answer. I should have kept my course.

7. If you had kept your course and discovered that the light of the steamer was rapidly nearing you, what then would you have done?

Answer. I should have stopped, and, if I thought it necessary, backed her.

8. Which is the easiest handled, a steamboat with wheels at the sides or a propeller?

Answer. A steamboat. The reason is, that a steamboat has usually more power and can apply it to a better advantage.

9. If the steamer Atlantic, when discovered by the propeller, and under the circumstances detailed in the foregoing question, was laying her course S. W. by W. $\frac{1}{4}$ W., if each vessel had held her course, what would have been the result, so far as regards a collision?

Answer. There could have been no collision. The steamboat would have passed to the south'ard of the propeller at least a half a mile, leaving the propeller to the north'ard.

10. How do you manage your steamboat when you find yourself in close proximity to another vessel with danger of collision?

Answer. I immediately stop and ring the big bell, particularly if the night is dark, or thick, or foggy. If necessary, I back.

11. Is it so that a steamboat or a propeller can diminish their speed one-fourth, or one-half, as occasion may require, by a proper use of the machinery?

Answer. They can, and it is frequently done. It is done by shutting off the steam; they can diminish the speed from twelve knots to three.

J. M. LUNDY.

Deposition of James Munroe, taken before R. P. Parsons, United States Commissioner for the District of Ohio, at the City of Cleveland.

Dep'n of Jas. Munroe.

Witness saith:—

Question by Mr. Spalding, att'y for claimants.

No. 1. What is your age and occupation?

Ans. I am forty years of age and a sailor by profession.

No. 2. You may give your experience in the navigation of steamboats and propellers upon the lakes.

Ans. I have been master of a propeller for the last six years, have been twelve years upon the lakes.

No. 3. Which can be handled with the most ease and the greatest facility when under way, a steamboat carrying passengers, or a propeller carrying freight?

Ans. In my judgment I think a steamboat can be handled easier. I think on account of her speed and engine she can be turned or stopped quicker than a propeller.

No. 4. Upon the hypothesis that the propeller Ogdensburgh during the night of the 19th of August last, while steering for the mouth of the Welland Canal, her course N. E. by E., made the light of the steamer Atlantic (on her way from Buffalo to Detroit) from two to two and one-half points off the starboard bow, distant about three miles, what sort of management on the part of those who had charge of said propeller did ordinary prudence and a due regard to the safety of the two vessels require?

Ans. I should in my judgment have kept my course and watched the bearings of the light. If the bearings did not alter and both vessels were approaching each other, I should check the speed of my boat. If I found I could not pass her with safety, I should have stopped until I could discover the way she was going. If there was any danger of a collision I should back, if not I should keep on my course.

No. 5. If under a state of circumstances like those set forth in the last question, the Atlantic made the light of the propeller ¾ of a point off her larboard bow, the Atlantic then steering her true course, S. W. by W. ¾ W., and running seventeen miles an hour, what sort of management on the part of the officers of the steamboat did ordinary prudence and a due regard to her own safety and the rights of the propeller require?

Ans. I think if they made the light ¾ of a point on the larboard bow, and was satisfied they were approaching each other, and the propeller's light did not vary any in its bearings, the steamer ought to have checked her speed until she ascertained what course the propeller was steering, or which way she was going. If the steamboat was satisfied they were approaching each other fast, she should have stopped her engine and backed; common prudence in my judgment required it. I have pursued that course myself invariably.

No. 6. Under the circumstances detailed above, if the Atlantic and Ogdensburgh had each kept her course, what would have been the result so far as a collision is concerned?

Ans. I think the steamer would have passed the propeller on her starboard quarter by a half a mile. No collision would have occurred.

Cross-ex. by Mr. Tilden, Att'y for Libellants.

No. 1. How far should you think the Atlantic did change her course to have brought about the collision?

Ans. I should judge from a point and a half to two points, taking into consideration the distance of the two vessels when their lights were first discovered; that is, she ported her helm from a point and a half to two points.

No. 2. Suppose the Ogdensburgh at the same time had changed

her course from a point to two points at the time she first saw the light by putting her helm aport, the Atlantic doing the same thing at the same time, and the steamer running seventeen miles an hour, and the propeller checking her speed (as the witnesses say she did) to two or three miles an hour, would there have been any danger of a collision between the two vessels?

Answer. It does not seem to me that there would, provided both vessels had altered their course at the same time they first saw each other.

No. 3. A steamer and a propeller approaching each other, a night such as the witnesses say this was, I want to know how near the vessels must approach each other to be distinctly seen by each other.

Answer. I think you could see the lights and the smoke, and the signal lights, and the hull, about half a mile distant. I should judge so from the way they say they saw Long Point light.

No. 4. I wish you would state when these vessels were in full sight of each other a half a mile off, if both vessels had put their helms hard aport, could the collision occur both being under headway?

Answer. It appears to me it would not have occurred.

No. 5. Was it not the duty of both vessels when within half a mile of each other, and in danger of a collision, to put their helms aport?

Answer. I think they ought to have stopped if they saw there was any danger of a collision.

No. 6. From the way these vessels came together, if both had changed their course two points by putting their helm aport when half a mile from each other, would they have passed each other?

Answer. They might have gone by, but I think they would have come very close to each other.

No. 7. What boat was you on last season?

Answer. I was master of the propeller Prairie State, running in the same line with the Ogdensburgh.

Direct Examination resumed by Mr. Spalding.

No. 1. If the red light of the propeller is found to have been burning at the time, and was not seen by the officer of the deck on board the steamboat, and could not have been seen by him, what did it denote the course of the propeller to have been in relation to the course of the steamer?

Answer. If they were satisfied it was either a steamboat or propeller, it should have satisfied them that it was a vessel crossing their bow and running in for the Canada shore, the steamer should then have checked her speed.

JAMES MUNROE.

Deposition of Byron C. Harris, taken before R. P. Parsons, United States Commissioner for the District of Ohio, at the City of Cleveland.

Dep'n of Byron C. Harris.

Witness saith: I am twenty years of age, and was clerk of propeller Ogdensburgh at the time of her collision with the Atlantic in August last; on the 19th of August we left Cleveland, at about one o'clock P. M., for the Welland Canal; that night I went to bed not far from eleven o'clock; at that time the weather was clear and starlight. At about two o'clock in the morning of the 20th, I was awakened by the ringing of the engine bell to slow the engine. The noise caused by the vibration of the wire which proceeds from the pilot house to the engine always awoke me if used at night, as the wire passes beneath my room; I immediately, on alarm of slow bell, got out of my bed, and went to unfasten my door; after unfastening my door, I went back to the bed, and put on my socks, and took up my pants in my hand; just as I turned towards the door, I heard very distinctly the engine bell to back the propeller, together with the small alarm bell to back as quick as possible. I should judge it must have been from six to seven minutes from the time I first heard the bell to slow, to the time of the bell to back her; after the bell to back, I stepped out of my door and tried to fasten it. The door had a spring lock which can only be fastened on the outside by using the key. I took the key from the pocket of my pants, as I had them in my hand, and fastened the door. I then went forward, and just as I reached the rigging which come from the mast, the collision occurred. The engine had been backing a full half minute before the collision, as near as I can judge. My office is on the larboard side of the propeller, and therefore I did not see any light or steamer until I saw the bow of the steamer passing across the bow of the propeller; as soon as I could, after the concussion, I went out on the bow of the propeller, and saw the steamer leaving us very rapidly, and saw a light over our starboard quarter, which I inquired of Mr. McPherson, the second mate, what it was; he replied that it was Long Point light. I should think it was from two to five miles off. I looked up to see if our signal lights were burning, and they were, together with the red and green light, on the pilot house. They were burning as brightly as when I went to bed. Immediately after the collision Captain Richardson sent the first mate to lower the small boat and bring it around to the bow. He did so, and after they had fixed the bow with clothing, &c., as well as could be, and started the pumps to work, which must have taken some fifteen or twenty minutes, we started ahead. Captain Richardson spoke to me and asked if I could see the steamer's light; I answered that I could. He then said the light looked to him as though it was standing still, and that we would go to the steamer and get her to take off our deck load, and then he thought we could get along. We immediately proceeded towards the light, and run some ten or fifteen minutes, when of a sudden the light disappeared entirely. We continued on about five minutes, when we heard the first cry for help. The first I saw

after hearing the cry of the passengers was a small boat near us filled with men; I heard some one in the boat sing out that he was Captain Petty, captain of the steamer Atlantic, and to come and get him. The propeller was stopped, and the persons in the boat picked up. After we came up to the wreck, I went with Mr. McNett, the first mate, in the large boat, and helped to pick up persons that were in the water.

Question by Mr. Spalding.

No. 1. Have you the means of giving the cost of repairs upon the Ogdensburgh, rendered necessary by means of that collision? If so, give the same, together with the amount of estimated damage for detention and loss of time by said propeller, while undergoing such repairs, with damages for any lasting injury sustained by her hull.

Answer. I have the means, for I kept the accounts of the boat. The cost of repairs was about fourteen hundred dollars, the loss of time and detention, I would estimate at about twenty-four hundred dollars. I arrive at this conclusion by ascertaining how much she earned per day, upon an average, during the time she was running that season. As near as I can learn, there is a permanent damage to her hull of about twelve hundred dollars, making altogether the sum of five thousand dollars.

Cross-examined by Mr. Tilden, Att'y for Libellants.

No. 1. How long was the Ogdensburgh detained on account of these injuries?

Answer. I have estimated altogether eighteen days.

No. 2. How did you make up your estimate as to the permanent injury to the hull of the vessel?

Answer. From information furnished by the ship-builders at Kingston and French Creek, where she was repaired.

BYRON C. HARRIS.

Deposition of Charles H. Ludlow, taken before R. P. Parsons, United States Commissioner for the District of Ohio, at the City of Cleveland.

Deposition of C. H. Ludlow.

Witness saith:—

Question by Mr. Spalding, att'y for claimants.

No. 1. What is your age and occupation?

Answer. I am forty years old, and by profession a sailor. Have been a sailor about thirty years.

No. 2. You may give your experience in the navigation of steamers and propellers upon the lakes.

Answer. I have always sailed upon the lakes, and have been on a steamboat every year since 1836, except one year, when I sailed a propeller; all the time, except one year, I acted as master.

No. 3. Have you at any time commanded the steamboat Atlantic, that was lost last summer?

Answer. I have. I run her six trips from Buffalo to Detroit, for the Messrs. Wards. I took the place of Captain McBride, while he went east; this was during the summer of 1851.

No. 4. In what distance could the steamer Atlantic have been stopped, so as to lose her headway, when running at top speed?

Answer. I should think she could have been stopped still in three times her length.

No. 5. Was she an easy boat to handle?

Answer. She was, very.

No. 6. What was her fair average speed when running in smooth water?

Answer. I should think about fifteen miles an hour.

No. 7. Upon the hypothesis that the night of the 19th of August last, the propeller Ogdensburgh, when running for the mouth of the Welland Canal, and steering N. E. by E., with a speed of eight miles per hour, made the light of the Atlantic steamer coming from Buffalo, from two to two and a half points off the starboard bow, distant, as supposed, about three miles, what would you have done if you had had charge of said propeller? Would you have kept your course or varied it?

Answer. I should have kept my course.

No. 8. If you had kept your course, and discovered that the light of the steamer was rapidly nearing you, what then would you have done?

Answer. I should have stopped and backed.

No. 9. How do you manage your steamboat when you find yourself in close proximity to another vessel, with danger of collision, especially in the night season?

Answer. I stop the engine and back it; this I do invariably.

No. 10. Is it or is it not considered reckless sailing to run a steamboat at top speed when in close proximity with another vessel ahead, or nearly ahead, whose course you do not understand?

Answer. It is considered reckless sailing by me.

No. 11. Which can be handled with the most ease and the greatest facility, such a steamer as the Atlantic or the propeller Ogdensburgh?

Answer. The steamer Atlantic, with much the greatest ease.

No. 12. If the steamboat Atlantic, when discovered by the propeller Ogdensburgh under the circumstances detailed in question Number 7, was laying her course S. W. by W. $\frac{3}{4}$ W., if each vessel had held her course, what would have been the result, so far as regards a collision?

Answer. There would have been no collision. I think that the steamboat would have gone half a mile to the south'ard of the propeller.

C. H. LUDLOW.

after hearing the cry of the passengers was a small boat near us filled with men; I heard some one in the boat sing out that he was Captain Petty, captain of the steamer Atlantic, and to come and get him. The propeller was stopped, and the persons in the boat picked up. After we came up to the wreck, I went with Mr. McNett, the first mate, in the large boat, and helped to pick up persons that were in the water.

Question by Mr. Spalding.

No. 1. Have you the means of giving the cost of repairs upon the Ogdensburgh, rendered necessary by means of that collision? If so, give the same, together with the amount of estimated damage for detention and loss of time by said propeller, while undergoing such repairs, with damages for any lasting injury sustained by her hull.

Answer. I have the means, for I kept the accounts of the boat. The cost of repairs was about fourteen hundred dollars, the loss of time and detention, I would estimate at about twenty-four hundred dollars. I arrive at this conclusion by ascertaining how much she earned per day, upon an average, during the time she was running that season. As near as I can learn, there is a permanent damage to her hull of about twelve hundred dollars, making altogether the sum of five thousand dollars.

Cross-examined by Mr. Tilden, Att'y for Libellants.

No. 1. How long was the Ogdensburgh detained on account of these injuries?

Answer. I have estimated altogether eighteen days.

No. 2. How did you make up your estimate as to the permanent injury to the hull of the vessel?

Answer. From information furnished by the ship-builders at Kingston and French Creek, where she was repaired.

BYRON C. HARRIS.

Deposition of Charles H. Ludlow, taken before R. P. Parsons, United States Commissioner for the District of Ohio, at the City of Cleveland.

Deposition of C. H. Ludlow.

Witness saith:—

Question by Mr. Spalding, att'y for claimants.

No. 1. What is your age and occupation?

Answer. I am forty years old, and by profession a sailor. Have been a sailor about thirty years.

No. 2. You may give your experience in the navigation of steamers and propellers upon the lakes.

Answer. I have always sailed upon the lakes, and have been on a steamboat every year since 1836, except one year, when I sailed a propeller; all the time, except one year, I acted as master.

No. 3. Have you at any time commanded the steamboat Atlantic, that was lost last summer?

Answer. I have. I run her six trips from Buffalo to Detroit, for the Messrs. Wards. I took the place of Captain McBride, while he went east; this was during the summer of 1851.

No. 4. In what distance could the steamer Atlantic have been stopped, so as to lose her headway, when running at top speed?

Answer. I should think she could have been stopped still in three times her length.

No. 5. Was she an easy boat to handle?

Answer. She was, very.

No. 6. What was her fair average speed when running in smooth water?

Answer. I should think about fifteen miles an hour.

No. 7. Upon the hypothesis that the night of the 19th of August last, the propeller Ogdensburgh, when running for the mouth of the Welland Canal, and steering N. E. by E., with a speed of eight miles per hour, made the light of the Atlantic steamer coming from Buffalo, from two to two and a half points off the starboard bow, distant, as supposed, about three miles, what would you have done if you had had charge of said propeller? Would you have kept your course or varied it?

Answer. I should have kept my course.

No. 8. If you had kept your course, and discovered that the light of the steamer was rapidly nearing you, what then would you have done?

Answer. I should have stopped and backed.

No. 9. How do you manage your steamboat when you find yourself in close proximity to another vessel, with danger of collision, especially in the night season?

Answer. I stop the engine and back it; this I do invariably.

No. 10. Is it or is it not considered reckless sailing to run a steamboat at top speed when in close proximity with another vessel ahead, or nearly ahead, whose course you do not understand?

Answer. It is considered reckless sailing by me.

No. 11. Which can be handled with the most ease and the greatest facility, such a steamer as the Atlantic or the propeller Ogdensburgh?

Answer. The steamer Atlantic, with much the greatest ease.

No. 12. If the steamboat Atlantic, when discovered by the propeller Ogdensburgh under the circumstances detailed in question Number 7, was laying her course S. W. by W. $\frac{1}{4}$ W., if each vessel had held her course, what would have been the result, so far as regards a collision?

Answer. There would have been no collision. I think that the steamboat would have gone half a mile to the south'ard of the propeller.

C. H. LUDLOW.

Deposition of Hiram Sprague, taken before R. P. Parsons, United States Commissioner for the District of Ohio, at the City of Cleveland.

Dep'n of Hiram Sprague.

Witness saith:—

Question by Mr. Spalding, att'y for claimants.

No. 1. What is your age and occupation?

Answer. I am forty-three years of age, my profession that of a sailor.

No. 2. You may give your experience in the navigation of steamers and propellers upon the lakes.

Answer. I have been employed upon the lakes for twenty-three years. I have commanded sail vessels and propellers for twenty years, and occasionally have had charge of a steamboat.

No. 3. Which can be handled with the most ease, a steamboat or a propeller?

Answer. A steamboat with wheels at the side. I am satisfied that the steamer Atlantic could be handled much easier than the propeller Ogdensburgh.

No. 4. Upon the hypothesis that upon the night of the 19th of August last, the propeller Ogdensburgh, when running for the mouth of the Welland Canal, steering N. E. by E., with a speed of eight miles an hour, made the light of the Atlantic steamboat coming from Buffalo, from two to two and one-half points off her starboard bow, distant as supposed about three miles, what would you have done if you had had charge of said propeller? would you have kept your course, or would you have changed it? would you have kept on under full speed, or would you have checked your speed?

Answer. I should have kept my course. I should not have slackened my speed till I found the light was rapidly nearing me.

No. 5. If you had kept your course, and discovered the light of the steamer nearing you rapidly, so much so as to render a collision probable, what would you have done?

Answer. I should have stopped and backed.

No. 6. If the steamer Atlantic, when discovered by the propeller under the circumstances detailed in question Number 4, was laying her course S. W. by W. $\frac{1}{4}$ W., if each vessel had held her course, what would have been the result so far as regards a collision?

Answer. There would have been no collision. The steamer would have passed the propeller some considerable distance to the south'ard of her, perhaps half a mile.

No. 7. Will you be pleased to state the peculiarity attending the stopping of a one-wheel propeller like the Ogdensburgh? Do you commonly stop them all at once, or by slowing them gradually?

Answer. We generally slow them first, for the reason that, if she was stopped entirely, it would cant her head to port, or to the left. She would then be thrown off her course in spite of her helm.

No. 8. Can a propeller with one wheel, when under headway, be stopped and backed as readily as a side-wheel steamboat?

Answer. I think it cannot.

No. 9. What is the duty of the respective parties, after a collision, so far as it regards aiding and assisting each other?

Answer. I should think it the duty of both vessels to stop, and see what damage had been done each other, and, if necessary, to render assistance.

HIRAM SPRAGUE.

The foregoing depositions, from page 72, were taken between the twenty-eighth day of February and the 29th day of March, A. D. 1853, to wit, the depositions of John Caldwell, James Connoly, James M. Lundy, James Munroe, Byron C. Harris, Charles H. Ludlow, and Hiram Sprague.

Deposition of Abner C. Ellis, taken before George G. Ball, United States Commissioner for the District of Michigan, at the office of the clerk of the United States Courts in the City of Detroit, on the ninth day of April, A. D. 1853.

Deposition of Abner C. Ellis.

Witness saith: Resides in Sandwich, Canada West; is by occupation a saddler; has resided in Sandwich a little over eight years. Was a passenger on board the steamboat Atlantic when she was sunk in Lake Erie in August, eighteen hundred and fifty-two; was asleep in my state-room when the collision took place between the Atlantic and the Ogdensburgh. My state-room was numbered nine, and over the place and on the same side of the collision. The force of the collision awoke me, when I jumped out of my berth and went into the cabin. (Lights were burning there when I first came out of my state-room. The first I saw was the broken fragments of a portion of the boat. The next thing I saw all the lights in that part of the cabin where I was were put out by turning down the lamps; supposed and has no doubt that this was done by one of the hands of the boat, as he whom I saw put out the lights appeared to be one of the hands, he having no coat or hat on. This left the cabin in total darkness, so much so that I could not find my state-room again. Went into two state-rooms, neither of which was his own, and he then gave up the search for his room. My object in going back was to get my clothing and watch, I having nothing on at the time but my shirt and pantaloons. I then went on the promenade deck; cannot tell exactly how long a time elapsed after I left my state-room before I went on deck; it might be about five or ten minutes, perhaps fifteen. Saw no officer, to know him, on the promenade deck, and no person who acted as an officer, and heard no orders given:)

The libellants, by their attorney, Mr. Lathrop, objects to all that

portion of the testimony from and including about the lights, above marked in parenthesis, as being irrelevant.

Cross-examined by Mr. Lathrop.

Could not tell exactly the length of time that elapsed before I went on deck any more certainly than I have stated. I went aft through the cabin on to the promenade deck; before I went aft the fires were put out, as the cinders and ashes had reached the cabin where I was. I went out of the cabin at the side door on the promenade deck.

A. C. ELLIS.

Deposition of George Fisher, taken before Rensalear W. Clarke, United States Commissioner for the District of Vermont, at the town of Newfane, in the County of Windham, on the twenty-fourth day of February, A. D. 1853.

Deposition of Geo. Fisher.

Witness saith: I am fifty-three years of age; that I reside in Newfane, in the County of Windham, and State of Vermont, and I am a farmer; that on the 19th day of August, 1852, I went on board the steamer Atlantic at Buffalo, New York, bound for Detroit, Michigan; the steamer got under weigh about ten o'clock in the evening of that day for Detroit, and very soon after I went to bed. Some time in the night, about two o'clock, I was waked from sleep by a concussion as if we had run against something. I laid a short time, and finding the confusion and noise did not subside, I got up and dressed myself all but my feet, and went up on the hurricane deck; I should think it must have been fifteen minutes, and it might have been twenty minutes and more, from the time I heard the collision till I got to the hurricane deck; when I came out on the deck the steamer was running slowly; I could see the ripple of the water as I looked over the side, but otherwise was not sensible of the motion of the boat. My state-room was on the larboard side, just forward of the engine, off the saloon. When I came out of my state-room, there were no lights burning in the saloon. After the collision, I saw no officers of the steamer anywhere; I saw no persons giving orders or taking any charge of the vessel any way. If any orders had been given, I should have heard them even before I left my room, that is if they had been given in the saloon, for I could hear anything very plain, and after I left my room, I know that no orders were given. About the break of day, I was taken from the wreck by the propeller Ogdensburgh; I judged that the steamer was going in a westerly direction, because I saw the light of the breaking day over her stern; I laid a little while in my berth, as above stated, after the collision, and when the bell began to ring I got up; I cannot fix the time of interval between the collision and the ringing of the bell; it was some little time. I think when I got on deck the bell had ceased ringing. None of the officers or hands

of the steamer rendered any assistance to the passengers to escape. I saw no one of them doing anything whatever in that way; no one took any charge of anything about the boat or the safety of the passengers. The propeller hailed us, and said if we would be quiet and not make a rush, they would take us all aboard, but that if we rushed in a crowd aboard their boat that we should sink them, for that they were in a crippled condition. I do not pretend to give the words, but the above is the substance of what was said to us from the propeller; accordingly, the propeller came alongside, and a rush was made by the people aboard the steamer, and the propeller received a number, and then shoved off and played around us for a while, and the propeller's boats were busy picking up people from the water; and after they had picked up all that could be found, the propeller came alongside of us again and took aboard the rest of us; as fast as we got aboard the propeller we were sent to different parts of the vessel, in order, as I understood it, to prevent the propeller from sinking, which there was danger of if we all huddled together in one place. It appeared to me at the time that the propeller did all that could be done to save the passengers after it came to us. I remarked at the time, and say now, that, in my opinion, the propeller managed admirably in saving the passengers after it came to us. As for saving anything else, that was out of the question. The atmosphere was what I should call smoky; the day before had been very smoky, and the night was warm. I saw the propeller's lights as she approached. When we got in sight of Erie, the propeller made signals of distress, and the steamer Sultana came down and took us off, and carried us to Detroit. After we were aboard of the propeller, I heard one of the passengers ask the mate of the Atlantic what was the cause of the collision, and the mate replied, "Well, it is just one of those kinds of accidents that will happen when the hands get broke of their rest and get dreamy or dozy." I think those were very near or quite his very words. This man was called the mate, and was said to be the officer that was on watch at the time. I only know these facts about the official character of the man by what was said among the passengers at the time. I saw Captain Petty, of the Atlantic, when we came alongside of the Sultana; he went on board of the Sultana, and spoke with her captain, and then told the passengers of the Atlantic that those who chose to do so might go aboard the Sultana, and be carried to Detroit; I saw no appearance of his being injured, except that he wore a handkerchief round his head. He appeared spry and strong. It was the unanimous opinion of the passengers, as far as I could tell, that Captain Petty was feigning being injured.

GEORGE FISHER.

Deposition of Watson A. Fox, taken before Benoni Thompson, United States Commissioner for the Northern District of New York, at his office in the City of Buffalo, on the twentieth day of April, A. D. 1853.

Dep'n of W. A. Fox.

Witness saith: I reside in the City of Buffalo, in the County of Erie and State of New York, am thirty-four years of age, and have resided in Buffalo eighteen years, and design to continue to reside there. I am now, and was in 1852, the owner of steamboats and vessels on Lake Erie, and did business in Buffalo. I knew the steamer Atlantic in 1852. I was one of the proprietors of the steamer Golden Gate, and she came out in May, 1852. I was on board of the Golden Gate on her trial trip, about the last May, 1852; went up the lake from Buffalo to a point between Point Ubuvo and Sturgeon Point, nearer the American shore than the Canada shore; we turned to come back to Buffalo about 10 o'clock in the evening; after we got on our course, the Buffalo light-house was east northeast, and we were headed east northeast. I know this, for I was on top of the pilot house, and looked down to the compass in the pilot house. Shortly after we came about, discovered the lights of the Atlantic; when we first discovered her, we made her lights about half a point on our larboard bow, at the distance, I should think, about six miles off. She had forward colored lights, a green light on her starboard bow, and a red light on her larboard bow; we had the same description of lights on our steamer, on top of the pilot house, the lights of which was unobstructed. Soon after I saw the two lights, I discovered the green light of the Atlantic, and her white lights, on her starboard side, between decks. I then looked at our compass, and discovered that we were straight on our course. When we saw the green light of the Atlantic, we put our helm aport, which changed our course at least one point. In about a minute after we put our helm aport, we saw both the lights of the Atlantic, and then we immediately saw only the red light of the Atlantic: our helm was then steady; at this time were, as near as I could judge, about two miles apart. The next thing we discovered was both the lights of the Atlantic, and then the green light again. Up to this time, we continued on our course. As soon as we discovered her green light, we stopped our engine, and the wheel was put hard a-starboard, as we discovered that the Atlantic was crossing our bows. When we saw the green light the last time, it was about a point over our larboard bow; she was about a half a mile off. Immediately the stopping bell was rung, and the engine stopped, when the backing bell was rung, and the engine of the Golden Gate was backing when the Atlantic crossed our bows, and she, the Atlantic, passed within three feet of our starboard bow, and a man standing on our upper deck, as the Atlantic passed us, reached out and put his hand on the railing of the Atlantic abaft the wheel house. I noticed, as the Atlantic passed us, that her wheel was hard a-starboard. Captain Petty was master of the Atlantic at the time, and he was on board at that time. I think, as we got abaft of the wheel of the Atlantic, her wheels stopped. The night was a clear starlight night.

WATSON A. FOX.

Deposition of Henry Van Allen, taken before Benoni Thompson, United States Commissioner for the Northern District of New York, at his office in the City of Buffalo, on the twentieth day of April, A. D. 1853.

Dep'n of H. Van Allen.

Witness saith: I am forty-six years old, and reside in the City of Buffalo, and design to continue to reside in Buffalo. In 1852, I was sailing the steamboat Empire State. I have been engaged in sailing steamers on Lake Erie since 1833. I knew the steamboat Atlantic in 1852 and before. Captain Petty was master of the Atlantic in 1852. I am not acquainted with Captain Petty. I am acquainted with the steamboat captains generally upon Lake Erie. William Conckey was mate and Robert McLane was second mate of the Empire State in 1852, with me. I sailed the steamer May Flower in 1851. The same men were mate and second mate on board of her that were with me last year. The usual course of steamers running from Buffalo to Detroit is southwest by west half west. This course will bring us within two miles of Long Point, Canada. In fair weather, when steamers are coming near each other, with the appearance of a collision, it is the duty of the master, or whoever is in command, to stop the engine and back the steamer. We ascertain how we are approaching a light, or a light is approaching us, at a distance, by continuing steady on our course.

Question. Should you, in steering up the Lake with a steamer to Detroit, discover a light from one to two points over your starboard bow, at the distance of three miles, how should you steer to pass her?

Answer. I should keep steady on my course.

Question. Suppose in steering, as in the question above stated, at the distance of three miles, you should discover a light from one to three points over your larboard bow, how should you then steer?

Answer. I should not change my course until I come near enough to see that there was danger of a collision.

Question. Supposing a steamer running at the rate of between sixteen and seventeen miles an hour, in what distance could you stop her so that she should be still?

Answer. I should think she could be stopped in sailing within three lengths of her.

Question. Were you acquainted with the capacity and speed of the Atlantic?

Answer. Yes.

Question. In what distance could she be stopped running at her full speed?

Answer. I believe they could stop her within three lengths of her.

Question. Do you know her general speed between the City of Buffalo and Detroit?

Answer. Yes.

Question. What was her usual speed?

Answer. Between fourteen and fifteen miles.

Question. Should you meet a steamer sailing down the lake northeast and by east, and you steering up the lake southwest and by west, should make a light two points over your starboard bow, at the distance of three miles off, would it be good seamanship in you to change your course and cross the bow of the other vessel?

Answer. No, I think not.

Question. In meeting a vessel sailing directly opposite to the course you are sailing, seen two points over your starboard bow at the distance of three miles, both vessels continuing their course, what would be the distance that they would pass each other?

Answer. About a mile, and if seen at one point they would pass at half of the distance.

H. VAN ALLEN.

Deposition of Lemon Smith, taken before John O. Dickey, United States Commissioner for the Northern District of New York, at his office in the village of Sacket's Harbor, on the third day of March, A. D. 1853.

Dep'n of Lemon Smith.

Witness saith: I am thirty-seven years old and upwards. I reside in the village of Sacket's Harbor, in the County of Jefferson and State of New York. I am a peddler. I was on board the steamboat Atlantic at the time of her collision with the propeller Ogdensburgh, on the morning of the twentieth day of August, 1852, on Lake Erie. I went on board of her at Buffalo, in the State of New York, on the evening of the 19th of August aforesaid, bound for the City of Detroit in the State of Michigan; we left Buffalo about 10 o'clock. I occupied berth Number 17 in the gentlemen's cabin. I was in my berth at the time of the collision. I went into my berth about half past twelve. A good part of the time before retiring to my berth I was on the hurricane deck. I was there immediately previous to retiring. I stood near the pilot house. The officer of the deck asked me if I had taken a deck or cabin passage. I told him I had taken a cabin passage, and knew the number of my berth, and did not want to go to bed, for I was not sleepy; this was about twelve o'clock. A short time after this I heard the second mate say to the man at the wheel that he did not feel very well, and there is nothing in sight, he would go and turn in; these may not be his precise words, but are the substance of what he said. He left the wheel-house and went aft. I saw nothing more of him while I remained on deck. I remained in my berth until the time of the collision. I was not sound asleep at the time. Upon the collision, I left my berth and went on to the hurricane deck; I had my pantaloons and socks on when I left my berth, and did not dress myself more, except to put on my boots. The engine was working when I arrived on the hurricane deck, and continued working about twenty

minutes; it may have been more or less. I heard no order or orders given for the management of the boat. If any had been given, I think I should have heard them. I saw both the captain and mate when I arrived on the deck; they appeared to me to be in night-clothes. The steamer, when I arrived on deck, was under good headway, and continued running between twenty and thirty minutes, as near as I could judge. Shortly after the collision they lowered the large boat, which was swamped; then they launched the life boat, in which Captain Petty with the first mate and a few others escaped from the Atlantic. The reason why I notice so particularly about that was, I thought the passengers ought to have a chance as well as the crew. The steamer was under motion at the time the captain escaped from her. As near as I can remember that when I arrived upon the hurricane deck I saw the light of the propeller over the stern of the steamer. I remained upon the wreck until we were taken off by the propeller Ogdensburgh, after the collision. I think the steamer continued on her course up the lake. In my opinion, if she had run towards shore the distance she did run, she would have run into shallow water, and would not have been lost. I do not know that any of the officers or crew rendered any assistance to the passengers to escape from the steamer. As near as I could judge, the officers and crew of the propeller rendered all the assistance in their power for the safety of the passengers of the Atlantic. The propeller took us to Erie, Pennsylvania. Had the steamer been stopped immediately after the collision, I think most of the passengers would have been saved. Some few of the emigrants may have been lost. In my judgment, the steamer ran between two and three miles, it might have been more or less, after the collision. I did think the Atlantic's bell did not ring; if it did I did not hear it.

LEMON SMITH.

Deposition of John Oades, taken before John O. Dickey, United States Commissioner for the Northern District of New York, at his office in the village of Sacket's Harbor, on the fourth day of March, A. D. 1853.

Dep'n of John Oades.

Witness saith: I am thirty-eight years of age. I reside in the town of Clayton, in the County of Jefferson, and State of New York, and am a master ship-builder. I have been engaged as a master builder for the last eleven years. I know the propeller Ogdensburgh. I think she was built at Cleveland, in the State of Ohio, and first came out in the spring of the year 1852. I saw her at Clayton aforesaid the latter part of August or first of September; she came there for repairs. She came to my yard, and was repaired under my superintendence. On examining her I found her stem was knocked to the larboard side and split open; the most of the break in her was on the starboard side; the force of the blow, when she

was struck, twisted the bow of the vessel to the larboard about six inches; the whole of the deck-frame forward was upset; her stem was all carried away clear down to her keel; the outer part of the stem was entirely knocked clear off the vessel, and what remained inside was split open eight or ten feet from the main deck downwards; her plank-shear, on the starboard side, was so split up that it had to be taken out, and its place supplied with a new pine; that on the larboard side was shoved back and bulged out two inches or more, and had to be drawn back to its place; the paint on her starboard side was considerably marred, but not on the larboard bow. I judge from the appearances the blow she received must have been about quartering upon her starboard bow. In order to repair her I had to haul her out, and when out I took out the remaining part of the stem and put in a new one apron and all; took out some of the bow deck and put in new bulwarks on the starboard side, and a pine of new rail, and pulled the rail in and back to its place on the larboard side. The work on the upper or promenade deck was broken to pieces, and had to be repaired much the same as the main deck. The charge for hauling her out and remaining on the way, I think was one hundred dollars. I think there were two hundred days' work laid out upon her in repairing the damage done to her by the collision, which labor was worth one dollar and seventy-five cents per day. I was employed upon her seven days, at five dollars per day. The iron and iron-work was worth sixty dollars. The timber and lumber was worth fifty dollars. I should say the paints, oil, and painting was worth twenty-five dollars. These repairs were necessary, fit, and proper to render her seaworthy. She was detained, while these repairs were being made, about two weeks. We were not able to take the twist entirely out of her.

JOHN OADES.

Deposition of Thomas McGrane, taken before Alburtus Perry, United States Commissioner for the Northern District of New York, at his office in the City of Oswego, on the eighth day of March, A. D. 1853.

Dep'n of Thos. McGrane.

Witness saith: I am about twenty years of age. I reside in the City of Oswego. I am by occupation a seaman. I know the propeller Ogdensburgh. I was employed on the propeller Ogdensburgh in the capacity of steward from the 26th of April, 1852, to the 9th of December, 1852. Captain Robert Richardson was master of her during this time. I remember the collision which took place between her and the steamboat Atlantic. I was on board the propeller at the time. It took place on Lake Erie, off Long Point, in the month of August, 1852, in the night time, at about one-half past two o'clock. The propeller was on her trip from Cleveland to Gravelly Bay. It was my duty to take care of the signal lights,

and other lights on the propeller, on the night of the collision; the signal lights and other lights were lit and burning. I lighted them at about dark. There were the two white lights hung upon the cross-trees. There was a red and green light on the forward side of the wheel house, about five or six feet above the promenade deck. The wheel house spoken of is the pilot house. The signal light on the front of the pilot house was a triangular lamp, showing a red light upon the larboard side, and a green light upon the starboard side. This lamp stood in its usual place upon a shelf made for that purpose. There was a white light between the main deck and promenade deck, directly over the windlass. There were three white lights in the engine room, one on each side and one aft; there was also a light clear aft between the decks; there was a light burning in the cabin, which shone up through the skylight above the hurricane deck. This was a large globe lamp which was suspended from the upper part of the skylight. There were eight lights which could be seen by a person at a distance from the propeller, to wit: the two on the cross-trees, the signal light in front of the pilot house, the one forward, the three about the engine room, and one aft. At the time of the collision I was in the room which I occupied, just aft the engine, in bed. Soon after the collision I got up and went on deck. I noticed the lights spoken of; they were all burning; they continued to burn until after daylight. I noticed the lights particularly, because it was my business to see to them. There were other lights burning, which could be seen through windows, to wit: one in the captain's room, one in the mate's room, and one in the wheelman's room, and one in the deck hands' room. The captain's room is the forward room on the promenade deck, on the starboard side of the boat; it has two windows, one in front and one on the starboard side. The mate's room was on the larboard side forward, with one window showing on the larboard side.

THOMAS McGRANE.

Deposition of Vincent H. Burch, taken before Alburtus Perry, United States Commissioner, for the Northern District of New York, at his office in the City of Oswego, on the eighth day of March, A. D. 1853.

Dep'n of V. H. Burch.

Witness saith: I am about thirty-three years of age. I reside at Oswego. I am by occupation a boatman. I was on board the steamer Atlantic at the time of her collision with the propeller Ogdensburgh, which took place on Lake Erie, about the middle of August, 1852. I went on board the Atlantic at Buffalo, in the State of New York, at about eight o'clock in the evening previous, bound for Detroit, in the State of Michigan. The steamer got under way about ten o'clock of the evening previous to the collision. I turned in at about eleven o'clock, or a little before. I occupied state room number four,

near the bow, on the starboard side. I occupied the state room with Captain Benjamin Coe Turner, and another man whose name I did not know. I was in bed at the time the collision took place, which was at about two o'clock in the morning. I was awakened by the crash, and got up immediately. I had on my pantaloons, and, without dressing myself further, went into the saloon. I went abaft the wheel and saw no one stirring except two porters who were blacking boots, then went back to my room. I met Captain Turner at the door of my room. I went in and put on my coat. I then went in search of something with which to save myself; about this time the lights in the saloon were extinguished. I heard a jingling or rattling as if the lamps were thrown down and the glass broken. The lamps could not have been thrown down by the concussion attendant upon the collision, for the reason that they were up and burning after that happened. After the collision I heard no order or orders given by any one for the management of the boat or the safety of the passengers, and I think I should have heard them if any had been given, as I was looking out for some order from some one to enable me to shape my course to escape. About twenty minutes after the collision took place Captain Turner and myself jumped overboard together, taking a table with us. The steamer was running along considerably fast at the time we jumped overboard. I observed, as I hung my feet over into the water, she was moving so fast as to carry my feet back towards her stern. I cannot say whether the wheels of the steamer were moving or not. After we had been in the water in the neighborhood of an hour, we discovered a small boat and swam to her. This was one of the Atlantic's boats, and some of the hands of the Atlantic had charge of her. After we got to the boat and got hold of her, one of the persons having charge of her threatened to knock Captain Turner's brains out if he did not let go. After we got this boat (which was full of water) bailed out, one of the propeller's boats came to us and gave us an oar, and we rowed to the propeller and got on board of her. As the propeller came up to our rescue, I could see her lights quite plain, when she was at a distance of two or three miles off. The propeller took us near to the harbor of Erie, where we went on board the Sultana. Before I left the Atlantic some of the passengers endeavored to climb on the hurricane deck, and they were pushed back by a man who stood on the hurricane deck with a stick in his hands which I took to be a capstan or windlass bar, who swore at and threatened those who attempted to get up. After the collision I saw no one of the officers or crew of the Atlantic making any efforts to save the passengers, on the contrary they declined, in one instance, to pick up a passenger who was in the water calling for help; there was another person calling for help at the same time, whom they recognized as one of the crew, and him they went to and picked up. I think they could have saved the other also if they had tried to do so. This occurred after we got into the small boat. The hands of the Atlan-

tic retained the control of the boat. If we had had control of the boat we could and should, in my opinion, have saved both of these persons. In my judgment the officers and crew of the propeller did all in their power to save the passengers. This passenger, above mentioned, whom they declined to pick up, soon disappeared, and I suppose was lost. The atmosphere was a little smoky that night.

VINCENT H. BURCH.

Deposition, Thomas Quayle, taken before R. C. Parsons, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the 25th day of January, A. D. 1853.

Dep'n of Thos. Quayle.

Ques. by R. P. Spalding, Esq., att'y for claimants.

No. 1. Where do you reside and what is your occupation?

Ans. I reside at Cleveland, Ohio, and my occupation is that of a ship or boat builder, under, and by the name of the firm of Moses & Quayle.

No. 2. Who built the propeller Ogdensburgh? For whom was she built? How long since, and what is her tonnage and character of construction—strong and stanch, or otherwise?

Ans. Moses & Quayle built her; she was built for the firm of Chamberlin & Crawford; she was built a year ago this winter. I think her tonnage is three hundred and fifty-two $\frac{6}{95}$ tons ($352\frac{6}{95}$); she is a stanch, stout built propeller, calculated for carrying heavy loads.

No. 3. What was her cost, taking into the account her steam engine, tackle, and furniture?

Ans. Her hull and engine cost eighteen thousand five hundred dollars. I cannot say what her furniture cost.

No. 4. Who were the owners of the Ogdensburgh on the 20th of August last, and who own her at this time?

Ans. I supposed Crawford and Chamberlain to be the owners.

THOMAS QUAYLE.

Deposition of Robert Richardson, taken before R. C. Parsons, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the 25th day of Jan'y, A. D. 1853.

Dep'n of Rob't Richardson.

Witness saith:—

Question by Hon. R. P. Spalding, att'y for claimants, Messrs. Crawford and Chamberlain.

No. 1. What is your age and occupation?

Ans. I am thirty-five years of age. Have been a sailor for nineteen years, and am now a captain on the Lakes. Have been a master of a vessel for thirteen years.

No. 2. State if you are now, and was on the 20th of August last, a captain of the propeller Ogdensburgh; if so, relate all the particu-

lars in *in* regard to your trip from Cleveland towards the mouth of the Welland Canal, at the time of the collision with the Atlantic steamer, until you reached the port of Erie.

Ans. I am still and was then the captain of the propeller Ogdensburgh. I had charge of the Ogdensburgh since she was first built in the spring of 1852. I was, on August last, on our downward trip from Chicago, Illinois, to Ogdensburgh, New York, and reached Cleveland on the 17th day of August, 1852, and left on the 19th of same month for the Welland Canal about noon; when I left here the vessel was drawing about nine feet and from four to six inches aft, and from eight feet to about eight inches forward. That is the way we usually load for the Welland Canal, so that by the time we reach the Welland Canal our fuel is sufficiently burnt to give us an even keel. The propeller, without any freight on board, draws about five feet and one half aft, and about three feet forward. I left Cleveland on the 19th aforesaid about noon. The weather was still; I run down opposite Grand River, Ohio, by day light; after I got to Grand River I steered the boat east northeast for a little time, perhaps for about an hour, then we turned the boat N. E. by east till we came into collision with the Atlantic; I think the collision must have been about two o'clock in the morning of the 20th. The first intimation I had of any trouble was the ringing of the bell wires; the bell wires lead through some small staples from the pilot house to the engine right under my room, and in working the wires they make some considerable noise. The noise I think of the bell wires awoke me first; they generally do awake me if moved. Soon as I woke up I could hear steam; I got right up (my clothes being on, as I always sleep in them on Lake Erie, that is, my pantaloons) and took my boots the first thing; one of them I put on, then I stepped to the door with the other one in my hand; I opened the door which opens right out on to the promenade deck; soon as I opened the door the steamboat struck us; I had one foot out of doors when she struck us; my door opens on the starboard side clear forward. I then, as soon as I got out, got up on the hurricane deck; after I got up there, I had both boots on; when I put it on I cannot exactly say. After I got there I spoke to the mate of the Ogdensburgh at once, Mr. McNett, and asked him if his vessel was backing. He said she was. (Counsel for pl'ffs object to so much of this answer as contains the reply of the mate.) The Atlantic kept along on her way. As soon as she got clear of us I went down on to the promenade deck and rung our big bell. Our engine at this time was still; I mean after the Atlantic had struck us and turned us around and got clear of us, the engine stopped backing and stopped working. I see that the Atlantic was going on and leaving us; she paid no regard to our bell, and our stanchions on the larboard side of our promenade deck was carried away so that our deck had fallen down. I supposed at the first moment by the angle of our deck that our boat was sinking. Mr. McNett had then got down upon the promenade deck; I then told

him to go aft and get a boat down as soon as he could and get it round to her bows; he went aft then with the men to get the boat down, and I went clear forward into the eyes of the boat upon the promenade deck to look over upon the bows; I see that our stem was all gone, as far as I could see, with the exception of the top; I then run aft to see how Mr. McNett was getting along with the small boat; they then at this time were lowering it down. I then returned back forward and requested a passenger by the name of Ring to go down between decks with me and hold a globe lamp, which he did, until I could go forward then and see; when I found that the stem was cut off there at the plankshear, and by that time Mr. McNett had got there with the boat; I then got on to the main rail between the two lower decks, and asked Mr. McNett how bad she was hurt under water, for our stem was gone entire down there; he was in the little boat at this time feeling down under the water. He said that everything was gone down under the water as far as he could reach (I mean the stem), and that he could hear the water running into her.

(Counsel for pl'ffs object to so much of the last part of the above answer as contains anything the mate said.)

I could hear it also myself from the main deck. Myself and Mr. Ring then returned on to the promenade deck. I then told the second mate, McPherson, to set the men at work at the hand-pumps. I then went into my room, and got some clothes. I got a coat, and I think some bedclothes, and passed them down to Mr. McNett in the boat. I told him to sink them down and wet them, and see if they would not suck into the leak. He did so. I then went on to the hurricane deck. I could see Long Point Light, then some four or five miles from us, I should think it probable. I should think it bore about N. E. During all this time our propeller had been lying still. The engineer, Mr. Ebenezer Wait, then came up to me, and told me that the water was over the kelson in the crank-pit, and that it was gaining fast. I then asked if Mr. McNett had got through. He said he had done as much as he could do. I felt anxious to get the engine to work, as we pump with our engine. I told Mr. Wait to go right back to the engine, and stand by to work it. I rung to go ahead. I could see the Atlantic's lights, distant, about as nigh as I can calculate, about four miles. I watched her light a moment, and thought she had stopped. I concluded she had stopped to watch us, and see what had become of us; to see whether we were going to sink or not. I then concluded to run to her, and put all my deck load aboard of her, and let her carry it to Detroit. I thought by so doing I should be better able to take care of myself. After I had run some fifteen or eighteen minutes towards her, her lights disappeared. I then spoke to some of the folks standing round me, and said that she had gone and left us. I then thought she had started on again. I then thought of going directly back to the light-house as quick as I could get there; and at that time some one (I think it was Mr. Ring) said that he could hear hollering. I did

not myself hear it at that time. I spoke and said I guessed not. I then listened at this time, and heard distinctly the cries of those on board the steamer. I kept right on for her, although I could not see her, then supposing that she must be in trouble. My boat at that time was heading west by south. After I had run a little while, I saw the steamboat with her bows all sunk down. I should think about one-third of her smoke-pipes was out of water at this time. I kept on until I got within some thirty or forty rods of her; then I saw a small boat a very few rods to the northward of me with some people in it. They were hollering tremendously; they said this is Captain Petty of the steamboat Atlantic; they said stop and save us. I did not stop. They made the same remarks again right over. It then occurred to me, if he was captain of the boat, he might know the situation of things better than I did, and I accordingly stopped, thinking he could aid me in saving the people. Soon as I stopped, I could hear a man, a very little distance from their boat, hollering "save me." He appeared to be pretty much exhausted. I then told Mr. McNett to jump into our boat, which was in tow, and go and save that man. He did so; then, after getting that man in the boat, he started back for the propeller, and took Captain Petty's boat in tow, and towed it to the propeller, and those in this boat got out and came on to the propeller. As soon as they got aboard, I rung to go ahead again, and went alongside of the steamboat. Captain Petty, about the time I got alongside the steamer, got forward on my forward promenade deck, I being on the hurricane deck, directly over him. The first words Captain Petty says was: "For God's sake, don't go alongside of the steamboat, for there is six hundred passengers on board, and they will sink you." I replied to Captain Petty: "I shall go and get them, and if we sink, we will sink altogether." About this time we had got up to the boat, and had stopped the engine. My boat's bows went up to the steamer first, and I told the passengers on the steamer not to get on to my boat until I could get her alongside, and receive them on the after part of my boat, for my boat was in a sinking condition. They did not hear to me, but grabbed right on, and begun to come on board. I told them if they did not stop I should have to back away. They did not stop, and I backed away. After I got away, I then told them they must hear to me, and wait until I could get my boat alongside. I told them I would save them all if they would keep still. Some few of them on board the boat replied that they would. I then went ahead again, and went alongside of her, and threw a line aboard of her, and they took it and made it fast to their arch frame. We got along broad-side of her, so that we received all the people on the after end of our boat. There was some one man that came last (I do not know who it was, but I think it was their first engineer). I asked him if all the people was off from the boat. He replied to me that he thought they was. I told him he had better go back and open all the doors he could get at. He went back, and

came and told me that he could not find anybody. Previous to this, my clerk (I think it was him), Mr. Harris, got the big boat down (and Mr. McNett, all the time we were laying here, was going to and from the propeller in another boat, picking up the passengers from the water), and the big boat, after she was down, was engaged all the time in the same business. I then cast off my boat from the steamboat, and went ahead, and took a circle about a mile in circumference around her. I went around her three times, in this way diminishing the circle, and narrowing it each time; and when the little boats got people on board, I would stop and take them on, and go ahead again. I stayed there until I was satisfied I had got everybody there that was living, and I then started for Erie. The steamboat, when I was fast to her, and when I came up to her, was heading west and by south quarter or half south by my compass; my vessel, at this time, was fully manned, having two mates, two engineers, two firemen, two wheelsmen, six deck hands, two cooks and steward, and a clerk, and one or two boys, and myself. I commenced my course for the Welland Canal, I should think about ten miles below Grand River, about seven or eight o'clock in the evening, and steered N. E. by E. I do not recollect of seeing the Conneaut light that night. I saw the Ashtabula light. When I saw the Ashtabula light, it was my watch on deck. We were some ten or twelve miles off the land. N. E. by E. is the usual course we shape for the Welland Canal, till we get down to Long Point; then, if we are at all out of the way, we steer accordingly. The propeller is three hundred and fifty-two tons, and $\frac{61}{95}$ tons burden. At this time, we had about our usual load—what we call a canal load; we would average about between nine and ten miles per hour speed with our canal cargoes. The officers and men were fully competent for their respective duties. On this night my lamps were all properly lit, and in their places—my signal lights and all other lights. I carry two globe lamps—white lights up at the cross-trees. I carry a red and green light on the forward side of the pilot house, I think about four feet above the promenade deck, in a conspicuous place. We also carry six globe lamps between decks, which were properly lit and in their places; also a large lamp, which hangs on the centre of her cabin, over which there is a skylight, I think about twelve feet long, with a window clear round it on four sides; that lamp was lit, and showed through the glass. There was also a lamp lit in my room, which shows out of the window forward, and a lamp in the binnacle. I was never master of a propeller before last season, and I do not know the general number of lights carried by a propeller. I suppose, however, those I had were sufficient for all purposes. Of the six globe lamps between decks, there is five of them that can be seen at different positions of the boat. These were all hung in their usual places, and their light was unobstructed. At the time of the collision, it was my first mate, Mr. McNett's watch on deck. Lewis Young, the second engineer, was on watch also.

The wind (what little wind there was) was southwest, and had been so all night. The water was perfectly smooth; the weather was a little smoky; stars could be seen clear overhead; the smoke could not exceed, I think, over twenty or thirty feet high by the looks of the stars and the lights on my cross-trees. The smoke or fog generally shows itself about a lamp; the smoke was not so thick but we could distinguish a light from three to five miles off. After shaping my course for Erie at the time I left the steamboat, I could just see the sun rising above the smoke. When I got within about three miles of Erie pier, the steamboat Sultana was coming out of the pier. I made a signal of distress to let me get to her. We both steered for each other. She stopped, and I went alongside of her, and put the passengers what wanted to go on her. Capt. Petty went on board of her, and went up on the hurricane deck of the Sultana, and had some conversation with the captain of the Sultana, and by this time the steamer Clinton came alongside, and Capt. Petty came from the Sultana, crossed my boat, and went on board the Clinton (I understood from Mr. Blodgett), to make arrangements to send the Clinton down to the wreck. By this time, the passengers that wanted to go on the Sultana had gone on board. The Sultana was bound up the lake. She then went off; and I felt anxious about my pumping, and I hurried Captain Petty off the Clinton; told him I wanted to start my engine so I could pump. We started then for the pier, with Captain Petty on board. Just before I got to the pier, I told Captain Petty I had not been into Erie in some four or five years, and I did not know as I knew the way in (we drawing at that time all the water there was at Erie). I would have to stop at the pier. Captain Petty said that would not do; we must go to the dock, and he would pilot her in. He done so. After we had got past the stakes, I then took charge of the boat again myself. At this point of time I spoke to Captain Petty about the collision, and it was the first time I had spoken to him upon the subject. I said to Captain Petty that our engine had been slowed about ten minutes previous to the collision, and that we had stopped and had backed something about a minute before they struck. He said it could not be possible. I then spoke to Captain Petty about a dead body there was on board. I said to him, there is a dead body aboard; "what shall we do with it?" He did not make me any answer at all. I then had got nigh enough to the dock, so that I went forward to work my boat, and we had no further conversation. I got alongside the dock, and Captain Petty went ashore, and I have not seen him from that time to this, to my knowledge. Then I had to get a coroner to attend the dead body, which was that of a little girl, and to provide for his passengers, lending them my blankets and bed spreads to cover their nakedness.

No. 3. When was you first made acquainted with the name of the steamboat which came in collision with the propeller?

Ans. When I got back, and heard them say, in the small boat, "This is Captain Petty, of the Atlantic."

No. 4. What do you suppose to be the ordinary speed of the Ogdensburgh when deeply loaded, and propelled by the power of her engine alone?

Ans. We run differently at different times, faster with coal than with wood; her average speed when loaded, I suppose is from seven to nine or nine and one-half miles per hour.

No. 5. What are the several signals used on the Ogdensburgh in slowing, stopping, and backing—how many bells for each?

Ans. Slowing is three bells, stopping is one bell, and backing is two bells; that is the way we work our bell.

No. 6. Do you have a very small additional bell, and if so what is its use?

Ans. I have. I use it when my engine is going forward or back, to work all the steam and give her all the power.

No. 7. Describe with a little more particularity the situation of the stem of the propeller after the collision.

Ans. Her stem was gone from her plankshear down to her keel; the upper part of it, from the plankshear up, was knocked out of its place and hung by a large sliver. It was turned round to port about two points.

No. 8. What experience have you had, if any, in the navigation of steamers other than propellers?

Ans. In 1851, I was mate of a steamboat one season. I have had charge of the same boat seven weeks, and while the captain was with me, I used to work the boat a good deal of the time.

Cross-examined by Plaintiffs' Counsel.

No. 1. Was there any other mark on your vessel except on the stem from the collision? and if so, state what it was.

Ans. On our starboard side, from the stem about six feet back, one plank in the hull of the vessel (I think it was the second plank from the plankshear) was pressed in, so that the plank above and below it projected out ¾ to an inch beyond it, and on the larboard side the paint was just marked about two feet from the stem, and on our starboard side, the bullworks were all crushed in, on our larboard side, the plankshear was sprung off from the decks for about thirty feet from her stem to her gangway. At the stem the plankshear was off three inches from the decks, and decreased gradually to the gangway, the plank on the starboard side that was sprung in, was marred up and the paint all marred off, and the plank itself bromed up by the pressure. The wall on the starboard side was lifted up just about as far back as the plank was sprung in.

ROBERT RICHARDSON.

Deposition of Alfred Berry taken before R. C. Parsons, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the 25th day of January, A. D. 1853.

Dep'n of Alfred Berry.

Witness saith:—

Question 1. What is your age and what is your occupation?

Ans. I am twenty-six years of age; my occupation is that of engineering on board of steamboats.

No. 2. State if you was on board the steamboat Atlantic on the 20th of August last, and if so, what was you doing on board of her?

Ans. I was on board the steamer Atlantic at that time and acting in the capacity of 2d engineer.

No. 3. At the time of the collision with the propeller Ogdensburgh who had charge of the engine, the first engineer or yourself?

Ans. I had charge of the engine from twelve o'clock until after the collision.

No. 4. How fast in your judgment was the Atlantic running when the collision took place; what was her speed per hour?

Ans. Between sixteen and seventeen miles per hour.

No. 5. During the last twenty minutes previous to the collision, had her speed been checked at all by means of the engine?

Ans. It had not. We neither checked her before or after the collision.

No. 6. When did you first discover the light of the propeller, or when was it first made known to you that there was another vessel near to you?

Ans. I stood at the middle gangway about twenty-five minutes after two o'clock. I stood on the larboard side with one of the firemen, who was on watch also, and saw a light having the appearance of a star. I remarked it was too low for a star. It had a smoky appearance about it. Immediately after I saw the sparks from the chimney. I told the fireman it was a propeller as soon as I saw the sparks, and I told him it was a Lower Lake propeller, for she carried lights upon her cross-trees. I went right back to the engine, expecting we would have to stop or check. I had no more than got into the engine room than the fireman said stop her, she is coming right into us, upon which I told him I could not stop her for I had no orders to do so, and directly after she struck. The head engineer got up and asked me what was the matter. I told him it was a propeller that had run into us. He asked me if she the (steamboat) was making much water, and I told him no, I did not think she was making much. He then ordered me down into the lower hold to open the bilge injection; as soon as I reached the hold the water had commenced gushing in, and the first engineer hollored for me to come back. I went to the bilge injection and opened it before I came back, and when I turned to go back, the water was up to my waist. I then came up on the main deck, and the head engineer ordered me forward to go and see what kind of a hole there was. I could not get to it between decks, and so I then went up on the promenade deck and found where it was; it was on

the larboard side, on the forward gangway; as far as I could see, a hole was cut in between seven and eight feet, guard and all.

No. 6. How long had you been on board of that steamer?

Ans. That was the second season.

No. 7. In what capacity did you act the first season you were on board of her?

Ans. I was third engineer. I was 2d engineer during the whole of last season before the collision.

No. 8. What orders had you received from the first engineer in regard to stopping or slowing the boat without the necessary signal for that purpose?

Ans. He said there was a bell and telegraph for that purpose, and I must never stop her without the signal.

No. 9. If you had stopped the engine of the steamer and backed water when you first saw the propeller approaching, would not the collision have been avoided?

Ans. I do not think it would, for I had no sooner got into the engine-room and fireman hollored at me to stop her, for the propeller was coming right into us. I told him I could not, for I had no orders to do so; and the words were hardly out of my mouth when the propeller struck us.

No. 10. How was the Atlantic heading at that time?

Ans. That is more than I can tell.

No. 11. Can you tell whether she was going straight or not?

Ans. I do not know, I am sure.

No. 12. When the fireman cried out to you "stop her," why did you not stop her; and what reason have you given for not taking upon yourself the responsibility of stopping her at that time?

(Counsel for pl'ffs object to the last half of the above question.)

Ans. I had no orders to stop her. I did not wish to take upon myself the responsibility of stopping her because I had no orders to. I checked her once when going into Buffalo, when she was likely to strike the pier, and Mr. Buel told me never to check or stop without orders.

No. 13. When you answered Buel just after the collision and told him a propeller had run into you, what did he say?

(Question objected to.)

What did he say about its being good enough for her?

Ans. I did not hear him say anything about "its being good enough for her."

No. 14. How far distant, in your judgment, was the propeller when you first saw the light?

Ans. I could not tell exactly. I did not stop long enough to see what distance she was off.

No. 15. How wide was the steamer's guards at the place where she came in contact with the propeller?

Ans. About three feet and one-half.

No. 16. How far was the forward gangway from the stem of the steamer?

Ans. About fifty feet, or fifty-five, as near as I remember; I never measured it.

No. 17. Where did you go after the collision, and by whom, and in what service have you been employed since the collision?

Ans. I went to Erie first; then to the wreck on the Clinton; then to Cleveland, and afterwards to Detroit. I was employed on one of Captain Ward's boats after the collision about three months until the close of the season. I am now employed by Chamberlain and Crawford as an engineer.

No. 18. Did you save your trunk, clothing, &c., from the steamer that morning?

Ans. I did.

(Ques. and ans. objected to by pl'ffs' counsel.)

(No cross-examination of this witness.)

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ALFRED × BERRY.
mark

Deposition of De Grass McNett, taken before R. C. Parsons, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the 25th day of January, A. D. 1853.

Dep'n of De Grass McNett.

Witness saith:—

Ques. by claimants' att'y.

No. 1. State your age and occupation.

Ans. Thirty years old; my occupation is that of a sailor, and has been so for thirteen years.

No. 2. State if you was employed on board the propeller Ogdensburgh during the season of 1852, and if so, in what capacity?

Ans. I was employed on the propeller Ogdensburgh that season, and acted in the capacity of first mate.

No. 3. Will you now commence and detail the particulars of the cruise of that propeller after she left the port of Cleveland on the 19th day of August last, giving a minute account of the collision with the steamer Atlantic?

Ans. We left Cleveland soon after noon, between twelve and one o'clock on the nineteenth of August last, kept along close the land down to Grand River, steered from Grand River down abreast of Ashtabula (perhaps below Ashtabula) east-northeast. This course had been steered, my second mate told me, when I came on deck to commence my watch at twelve o'clock at night. I kept her along on the same course, E. N. E., until 2 o'clock, then hauled her off N. E. by E., that is, steered off the land from the south shore. Soon after that, I cannot say exactly how long, I saw a light two points or two points and one-half on our starboard bow. Still kept our course, and asked the man at the wheel, William Barnes, "if he saw the light;" he put his head out of the window on the starboard side of

the pilot-house and said he did. I told him to keep her straight on her course. The distance from the light when I first saw her was about three miles. He kept our vessel on her course; when I first saw the light I opened a little small door like a trap-door in the top of the pilot-house, so that I could see right on to the compass and tell how she was heading, and how she was steered. The man at the wheel was one of the regular wheelsmen of the boat. She was kept precisely on her course. I see that that light was nearing us but not crossing our bows, but coming right up towards us. I should think I looked at her about two or three minutes at this time to see if she was a crossing our bows, to see if she was closing in upon us, and I could not see that she was crossing us, but see that her light was nearing us. I then rung our bell to slow our engine, and still see that she was nearing us. I stood then and looked at her I should think about six minutes, perhaps a little more or less, and I could not tell whether she was steering precisely at us or very near at us.

During this six minutes our engine was running slow; I then see that she was heading stem on to us; I rung the bell to stop the engine, and the bell to back her at the same time, or as soon as I could after it. The engine backed I should think from a half a minute to a minute, then the steamer struck us. At the time I rung the bell to stop the engine, I told the man at the wheel to put his wheel hard a-starboard, and he did as I told him. I told him this for the purpose of canting our head to port, that is to turn her head to the left; my object was to swing her to break the force of the blow that the steamer might not strike us at right angles, but if struck at all to strike us a glancing blow.

No. 4. At the time you saw the steamer two points over your starboard bow, if each vessel had kept its course, would the collision have happened in your opinion?

(Ques. objected to by pl'ffs' counsel.)

Ans. It would not.

No. 5. Where would she have passed you, and at what distance from you?

Ans. She would have passed us on our starboard quarter from half a mile to a mile distant.

(Ques. and ans. objected to by pl'ffs' counsel.)

No. 6. What is the true course to sail from Buffalo westward, on your way to Detroit?

Ans. I cannot state how others sail, but vessels I have always sailed on steer up to Long Point W. S. W., then W. by S., one-half south.

No. 7. Relate minutely all the circumstances, as they occurred, of the collision.

Ans. At the time that the bell was rung to stop her she had a little headway, I should say, but not much. Immediately after giving the man at the helm the order to put her wheel a-starboard, the vessels struck, our bows striking her right forward of the wheel-

house. She swung us about half way round, and passed right along without stopping or making any signals or motions of stopping. We then lowered away our starboard boat, which was the smallest one, and one man went with me in the boat round under our bows to see what the damage was. Captain Richardson then asked me if she was leaking. I told him I could not tell. He told me then to put my ear up to the stem, to see if I could hear the water running into her, and I told him I could. He told me to put my hand down under water, and see how far the stem was gone, and I did so and told him it was gone as far as I could reach. He then threw down a coat, I think, and told me to tear it up, and see if it would not suck into the crack where she was leaking. This I did, and jammed it in with my fingers. I then took the boat along aft and got aboard the propeller, leaving the boat at the starboard quarter aft. I then went forward and see that our promenade deck was badly split and broke, and the stanchions on the larboard side was broken so as to let the deck drop down. I then took a globe lamp and went below on the main deck, and see that her plankshears was split and bursted off from the deck plank on the larboard side. I then went up on to the promenade deck, from there on to the hurricane deck with Captain Richardson, and we had some conversation; after making the repairs above mentioned, we started after the Atlantic. She had run off out of sight. I think we saw her lights after we started for her, and we kept along right after her and run from eighteen to twenty minutes, I should judge, before we heard or saw anything of her, as after we first started for her, her lights disappeared. Then we heard the first thing the screams of the passengers, and the first thing we saw was the Atlantic's life boat, and when we saw the boat she was a little ahead of us on our starboard hand to the northward of us. Those in the boat hollered to us "to come there." We then heard a man a short distance from their boat apparently a hollering "give me a rope." Captain Richardson then told me to get into our small boat and go and get that man. I got into the boat and started for him. In going to him I passed close by the Atlantic's boat, and heard them holler there to come to them with my boat. I told them to wait until I had picked up that man in the water, and then I would come to them. I then heard a man in the Atlantic's boat say, "Come here, God damn it, and save me first; I am Captain Petty." I told him to wait a minute, and I would be there. I then got this man that was in the water into my boat, and he was alive. I then went alongside of the Atlantic's boat and took Captain Petty into my boat, and some five or six others that were in the boat. I then asked him "why he did not scull up alongside of the propeller." He said they had no oar. I then towed the boat alongside of the propeller, and Captain Petty and all the rest came on board the propeller. I should say that Mr. Blodget, the first mate, was in the boat with Captain Petty. Before we fairly got alongside of the propeller, I asked them if they would take our boat

and go to picking up the people in the water, and they made no reply that they would, but said that they could not scull. I cannot say which made this answer. After they were all on deck, I then got on to the propeller and went on to the promenade deck and lowered away our largest boat, which was on the larboard quarter, and went with that boat myself to picking up people wherever I could find them. I picked up two full loads and brought them aboard; and while I was picking up these people in the water, Captain Richardson with the propeller was taking the people off from the wreck. After we had got them all off from the wreck, he then commenced a circle with the propeller around the wreck, and went around her two or three times, and our small boats were playing around within the circle about the wreck; doing this to make sure we had got every body that was alive, and when satisfied that we had got all, we started the propeller for Erie. We got to Erie the forenoon after the disaster; met the steamboat Sultana about two or three miles from the piers. We made a signal to her of distress, and she stopped, and we went alongside of her, and let the Atlantic's passengers, as many as wished, get aboard of her. While laying alongside of her, the "De Witt Clinton" steamboat came alongside of us, and lay a few moments. Captain Petty went on board the steamer Sultana as soon as she came alongside, and was in close conversation with the captain of the Sultana, then crossed our deck and went on board the De Witt Clinton, and had a conversation with the captain of the Clinton. The Sultana and Clinton soon let go of us, and we went on her way to Erie.

No. 8. I wish to know if you were standing on the hurricane deck with Captain Richardson when you discovered the Atlantic's small boat a little to the north'ard of you.

Ans. Yes, I was.

No. 9. Did a voice hail the propeller from that boat, and if so, what was said?

Ans. I don't remember what was said, there was so much hollering.

No. 10. Do you recollect what occasioned the *the* stopping of the propeller at that time, so that you might go off in the small boat?

Ans. I do not. I suppose it was to take the passengers out of that boat, and the man out of the water.

No. 11. When did you first find out that it was the steamer Atlantic that had come in contact with you?

Ans. When I was in our small boat, after the man struggling in the water, I had to pass the Atlantic's boat to get to that man. They hollored to me "to come there." I said wait till I get this man out of the water. And some one says: "Come here, God damn it! and take me first; I am Captain Petty, captain of the steamboat Atlantic." This was the first I knew it was the Atlantic.

No. 12. When you put off in the small boat, had the propeller

stopped? had any one hailed you from the water, or from a boat, and asked you to stop?

Ans. The propeller had stopped. I don't remember of any one's hailing us and asking us to stop.

No. 13. Had you discovered the small boat of the Atlantic before you stopped the propeller?

Ans. We had.

No. 14. Had you heard voices from that small boat?

Ans. I do not remember as I had.

No. 15. By whose orders did you leave the propeller in the small boat, and for what duty?

Ans. At Captain Richardson's order. He directed me to go and pick up that man in the water.

No. 16. How far was the Atlantic's small boat from the propeller at that time, and how far distant was the man you went to relieve?

Ans. The Atlantic's boat was about four or five rods from the propeller, and the man was a little further off.

No. 17. You have said, in the body of your deposition, that you put your ear to the stem of the propeller to ascertain if the water was gushing in; describe that stem in its then condition: was the stem then in whole or in part?

Ans. The stem beyond the planking was broken off, and that below the plankshear gone entirely, and that above it was split and slewed around to the left about two points. When I said I put my ear to the stem, I put it down to where the stem was broken off.

No. 18. When the steamer Atlantic, as she proved to be, came in contact with you, did she seem to be surging round to the starboard, with her helm aport, or did she appear to be on a direct course, straight ahead?

Ans. I think she was swinging some. Just before she came in contact with us, she seemed to be coming directly at us, but at the instant of the contact, she appeared to be swinging round, so that she came upon our bows right forward of the wheel-house.

No. 19. You have said that you had slowed the engine for about six minutes before you gave the order to "stop her;" I wish now to know how fast that propeller was running with her engine slowed six minutes.

Ans. I cannot say, but, as near as I can judge, from two to three miles per hour.

No. 20. As near as you can judge, how fast was the propeller making headway at the time the steamer came on to her bow?

Ans. I cannot say, but it must have been very slow—very slow—for it was after the engine had been backing from one-half minute to a minute.

No. 21. What would have been the effect if you had had your helm "put hard aport" instead of "hard a-starboard," at the time you gave the order for the later?

Ans. The effect must have been a trifling one. I cannot say how

much it would have effected her motion; it would have had a tendency to cant our head towards their midships; we should have come together a little further aft.

No. 22. What would have been the effect so far as regards the collision if the steamer Atlantic had stopped her engine and backed water, at any time during the six minutes that you was slowing the propeller?

Ans. She would not have touched us.

No. 23. What officers and men were on duty on board the propeller at the time of the collision?

Ans. Myself and William Barnes, wheelsman, myself being the officer of the deck, our second engineer, Lewis Young, and one of the firemen and one deck hand.

No. 24. What lights were burning, and how displayed, on board the propeller at the time of the collision, and for how long a time before the collision had they been thus burning and thus displayed?

Ans. Our signal lamp, showing a red and green light forward of the pilot house, on a shelf made for it; two globe lamps at the cross-trees, all burning; one globe lamp between the main deck and the promenade deck forward; three globe lamps aft, one opposite to each after gangway and one clear aft; all these lamps were lighted and burning; a large globe lamp burning in the cabin, suspended in the skylight, which rises above the hurricane deck a foot and a half, with glasses all around it. This light shows distinctly on the outside all round it; also a light burning in Captain Richardson's room on the starboard side clear forward, which has one front and one starboard window. The binnack lamp was also burning. They were all burning when I came on deck at twelve o'clock, and remained so until the collision.

No. 25. Mr. Berry said he knew you to be a lower lake propeller, as you carried light at your cross-trees. I wish to know what is understood by a lower lake propeller. What lake or lakes are referred to—those below Lake Erie, or otherwise?

Ans. Those below Lake Erie. Those that run on Lake Ontario.

No. 26. How high was those red and green lights displayed above the promenade deck in front of the wheel-house?

Ans. I should judge about five feet above the promenade deck, not quite up to the top of the hurricane deck.

Cross-examined by Plaintiffs' Counsel.

No. 1. State how soon after you discovered the light of the Atlantic you came to the conclusion she was a steamer?

Ans. About two or three minutes.

No. 2. What distance was you from the steamer when you ascertained that she was a steamer?

Ans. I could not say exactly; should judge she was two and one half or three miles.

No. 3. Before this had you seen Long Point light?

Ans. I had not.

No. 4. Had you any opinion as to the position of your vessel from your running whether near Long Point or not?

Ans. I supposed we must be getting down that way pretty well.

No. 5. What steamers in fair weather are usually found on that track?

Ans. I cannot tell.

No. 6. Do steamers coming up the lake to ports this side of Detroit pass ordinarily within six miles of Long Point light?

Ans. In fair weather, steamers bound for ports this side of Detroit on the south shore, pass within six or eight miles from the Point, I should judge.

No. 7. Were you to navigate a steamer from Buffalo to Cleveland in fair weather, you would pass, would you, within six or eight miles of Long Point light?

Ans. Yes, sir, I would.

No. 8. What would be your course past Long Point by the compass bound for Cleveland?

Ans. About west-southwest.

No. 9. How would you run on such a trip from Buffalo to Long Point?

Ans. About W. S. W.

No. 10. Are there any steamers coming through the Welland Canal bound for Cleveland?

Ans. None that I know of; no steamboats; of course, there are propellers.

No. 11. Did you ascertain at the time you speak of, two or three minutes after you saw the light of the steamer, whether she was passing up or down the lake?

Ans. I made up my mind she was going up the lake.

No. 12. When you saw the steamer's signal light, was it the green or red light?

Ans. A red light.

No. 13. Will you state what was your duty as a seaman, after discovering the red signal light of the Atlantic, to do, to bear away to the larboard or starboard?

Ans. It was to keep my course, and not turn to the larboard or starboard; my duty was to keep my course under the circumstances.

No. 14. Did you know from that signal light what tack she was on, starboard or larboard?

Ans. Steamboats have no tack.

No. 15. When you saw her red signal light, what did it indicate to you as to the course of the Atlantic?

Ans. It indicated to me that she was coming right on to us, or nearly that.

No. 16. State whether it indicated to you that the steamer was steering S. W. by south.

Ans. It did not.

No. 17. What did it indicate as to the course of the vessel?

Ans. I cannot tell.

No. 17. You have said that you saw the light of the steamer when you was three or four miles off, two points upon your starboard bow; had you put your helm aport and changed your course two points to the starboard, would you have come any nearer the steamer than you was at the time you first saw her?

Ans. Of course, we should come nearer to her.

No. 17. How, if you had taken that course, how far from the steamer would you have passed her?

Ans. I mean to say if we had altered our course two points, we should have steered straight on to her.

No. 18. Had you put your helm hard aport five minutes before the collision, would the collision have occurred?

Ans. I think it would; I think so because she was steered right on to us.

No. 19. If that steamboat was steered as you say boats going up the lake are ordinarily steered past Long Point, W. S. W., as soon as you saw her you had steered east by north, could the collision have occurred?

Ans. If she had kept her proper course, we would not have touched her, she steering and we steering as you stated.

No. 20. State whether you gave your description as to the facts of this collision on the day on which the collision occurred before the coroner's jury at Erie.

Ans. I did.

No. 21. Have you at any time sworn to, or made statements in relation to this transaction contrary to, or different from those made in this deposition?

Ans. No sir, not that I know of.

Re-examined by Counsel for Claimants.

No. 1. If the steamboat had kept her course W. S. W. and you had put your helm aport five minutes before the collision, would the steamer have struck you?

Ans. I cannot say whether she would or not. Had I put our helm aport the consequence would have been that we should have swung so as to be heading more on to her—but we was going at this time very slow and we could not have sheered round much.

No. 2. Where did the steamer carry her red light?

Ans. On or near her pilot house, I should judge.

No. 3. Did you say, or mean to be understood before the coroner's jury at Erie, that she carried her light at the mast head?

(Ques. objected to by pl'ffs' counsel.)

Ans. I meant to say, or be understood, at Erie that she carried her light on or near her pilot house.

No. 4. At the time you ordered the engine of the propeller to be

slowed, how far off should you judge the steamer was, she running at the rate of sixteen miles per hour?

Ans. I should think she was from a half to a mile off. I should think about a mile.

Re-cross-examined by Plaintiffs' Counsel.

No. 1. Will you state what a light a steamer must show on her larboard side, whether green or red?

Ans. Red light; that is the way we carry our light.

No. 2. Will you state then how it was that you concluded this steamer was running on your starboard side, when you saw her larboard light?

Ans. Because she was off on our starboard side.

No. 3. How happens it then that you did not see her green light?

Ans. I did see her green light when she got close to us. The reason why I saw the red light was because she was heading right at us; you cannot see a green light at a great distance.

Direct examination resumed.

No. 1. You said upon your cross-examination, that in sailing westward for ports this side of Detroit, Cleveland included, you would sail W. S. W. in coming out to Long Point, would that course continued bring you to Cleveland?

Ans. It would not. That course continued brings you on to Middle Island in the upper part of the Lake.

No. 2. After arriving at Long Point, what do you do then to reach Cleveland?

Ans. We alter our course there.

No. 3. What light of the steamer would you necessarily see, she running W. S. W., and you steering N. E. by E., and you at the same time making her light two points over your starboard bow?

Ans. We would see her starboard lights.

Cross-examination resumed.

No. 1. Why not, in running from Buffalo to Cleveland (instead of going to Long Point), make a straight wake for Cleveland?

Ans. Because you cannot do it, I believe.

DE GRASS McNETT.

Deposition of Lewis Young, taken before R. C. Parsons, United States Commissioner for the District of Ohio, at his *his* office in the City of Cleveland, on the 25th day of January, A. D. 1853.

Dep'n of Lewis Young.

Witness saith:—

Ques. by Mr. Spalding, att'y for claimants.

No. 1. What is your age and occupation?

Ans. I am twenty-five years of age, and by occupation an engineer.

No. 2. State if you belonged to the propeller Ogdensburgh on the 20th of August last, how long you had been on board of her, and what duty you performed.

Ans. I was employed on the Ogdensburgh at that time. Have since the seventh of April previous been employed on her; I was 2d engineer.

No. 3. Who had charge of the engine of the propeller at the time of the collision with the steamer Atlantic.

Ans. I had.

No. 4. At what time did your watch commence?

Ans. At half-past twelve o'clock.

No. 5. About what time was the collision?

Ans. Between two and half-past two o'clock.

No. 6. Will you now tell all you know of the circumstances attending that collision, commencing with the time when you first ascertained there was another vessel in your vicinity?

Ans. Our engine is right abreast our aft gangway; I generally look through the gangway while we run. About fifteen or twenty minutes before the collision took place, I looked through our starboard gangway; I saw a light coming which appeared to be a good way off on our starboard bow. I turned back and went into the engine room, took my oil-can and went below, and I oiled round the engine. I come back on deck and went into the engine room and put the oil-can back; I turned back to go out of the engine room to see if I could see that light again; I had not put but one foot out of the engine room, when I heard the bell to slow the engine—turned back and slowed her engine; I threw off the cut-off, and I pulled out the pin in the sink, ready to work her, to back her if there was any need of it. By that time the fireman came on deck; he went and looked on the larboard side; he could not see anything, and he came back on the starboard side. He saw the steamer, and he hollered to me to back hard—at the same time the bell was given to back the engine, and back it hard—the little bell rung to back her hard, and I did so. The fireman again hollered to "back her harder" because, he said, if I did not we would be "all goners," at the same time I saw the fireman run away from his place aft; I do not know where he went. I raised up my head and I saw through the starboard gangway the steamer coming; she was coming for about our midships, it appeared to me, and appeared to be coming head on. In a very short time she run against our bow, and knocked the starting bar out of my hand by the blow and threw myself upon the engine right against the cylinder. The starting bar I said was knocked out of my hand; by not holding it the engine stopped on a half centre.

No. 7. As near as you can judge, how long a time was it from the signal to "slow her" until the signal to "back her."

Ans. I should think it was between six or eight minutes; it might have been more or might have been less.

No. 8. When the propeller started to go to the steamer, who started her engine?

Ans. I did.

No. 9. After the signal was given you to back, and to "back hard," how long was it before they struck.

Ans. I should think it was three-quarters of a minute at least.

No. 10. During that time, say three-quarters of a minute, how many back revolutions did she probably make?

Ans. She must have made thirty-five or forty at least.

No. 11. I wish you to tell me what lights were burning on board the propeller during your watch and at the instant of collision?

Ans. Three around the engine, one aft, two at the mast-head, big one before the pilot-house (a green light and red one), two or three between the decks, another big one in the cabin right in the skylight, one in our captain's room, one in our steward's room between the promenade deck and the main deck; those are what we generally carry. I could not say they was all lighted some time or not, but I am sure those at mast-head was lit, and that one before the pilot-house, the signal light, and those three around the engine, and that one aft; the rest I did not go to see.

No. 12. What are the different signals given by the bell to regulate the working of the engine, that is, the signal to slow, to stop, and to back her, and to back hard?

Ans. To slow, is three bells; to stop, one bell; to back her, two bells; and to back hard, there is a little bell close by the big one; that little bell rings to back hard or go ahead hard.

No. 13. Will you tell me if you heard just before the signal to back, a single bell to stop her?

Ans. I could not say exactly; the fireman hollored so hard I could not hear the bell exactly well, but I heard two bells to back her sure; but the one to stop her I cannot say whether I heard it or not, because when we were in a hurry to back her sometimes they don't ring to stop; they ring two bells, that means to stop of course, and back her at the same time.

Cross-examined by Pl'ffs' Counsel.

No. 1. After you came back from the gangway at the time you first saw the steamer, how long do you think you was engaged in getting your oil-can, going below and oiling your machinery?

Ans. It takes some time to go down aft between the deck and the bottom of the boat. I should think about fifteen minutes, probably not that, probably more; it took some time to put the oil-can back after I came on deck, probably a minute.

No. 2. What time during the forepart of that night did you "turn in" to your berth?

Ans. I could not say. It was after dark, I should think; the lights were lit on deck and round the engine when I went to bed.

No. 3. Why are you able to state positively that the light at the

mast-head and the signal lights were lit, and are not able to state positively as to the other lights?

Ans. I went on deck before I went to bed, and after I was called and saw the lights I have mentioned burning; I went on to the bow of the boat after I was called before going to the engine, then I saw the signal lights and the lights at the mast-head; those around the engine were burning when I went to bed, and I put more oil into them when I took my watch. I went on the bow to take a bite (something to eat) before I took my watch.

No. 4. After you had put away your oil-can, as you have stated, and went back to the engine-room, how long did you think it was from the time you put away the can before the signal was given to "slow her?"

Ans. I could not say, a very short time.

No. 5. How many minutes do you think it was?

Ans. It could not have been a minute; not a half minute.

No. 6. At the time you looked out the starboard gangway, could you distinctly see the hull of the steamer?

Ans. No sir, only the light, and hardly that. Just before the collision I was in the engine-room, then I saw the hull of the steamer.

No. 7. Which did you see, the red or the green signal light?

Ans. I could not say which; I know it was a light.

No. 8. How long have you been engineering?

Ans. It is running on part of the fourth year; that is as second engineer.

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LEWIS + YOUNG.
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Deposition of John Delaney, taken before R. C. Parsons, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the 25th January, 1853.

Dep. of Jno. Delaney.

Witness saith:—

Ques. by Mr. Spalding.

No. 1. State whether you was on board the propeller Ogdensburgh on the 20th of August last; and if so, in what capacity was you employed?

Ans. I was employed on said vessel; I acted in the capacity of fireman.

No. 2. At what time did your watch commence?

Ans. At twelve o'clock at night.

No. 3. Tell all you know about the collision.

Ans. I came out of the hold after building a fire, on deck, and I got a towel and was rubbing myself off with it, and I was talking to the second engineer. I heard the engine slowed; I passed to the larboard side and looked out of the gangway and saw nothing; I

then passed around and went to the starboard side of the gangway; I looked out of the gangway and saw a steamboat coming; I thought she was bound to strike our midships, and I hollored to the engineer to back. I hollored to him the second time to back hard, or we were "all goners." I went away from the gangway and went round to the larboard side again, and took hold of the stanchions. I looked out and saw the steamboat's bows passing the propellor's bows; just as I saw her passing she struck the propeller.

No. 4. What induced you, after crying out to the engineer, "Back her hard," to go around to the larboard gangway and take hold of the stanchions? what did you do it for?

Ans. I thought the steamboat was going to strike the propeller.

Cross-ex. by Pl'ffs' Counsel.

No. 1. When you were at the starboard gangway, was the steamboat plain in sight?

Ans. She was.

No. 2. Could you see her hull?

Ans. I could.

No. 3. How long was this after you heard the signal to slow her?

Ans. To the best of my knowledge I should think about four minutes.

No. 4. What signal was given, if any, before the signal to slow?

Ans. I don't know, sir.

No. 6. How far do you think the steamboat was from you at the time you were looking at the starboard gangway?

Ans. To the best of my knowledge she was about a mile.

No. 7. If you, at that time, could see the steamboat plainly, as you say, you can tell how she was heading, and please state it.

Ans. I thought, to the best of my knowledge, she was heading straight for the propeller's midships.

No. 8. Did you see her red or her green light?

Ans. No, sir, neither; did not take notice of that.

No. 9. Who was the engineer that was with you on duty at this time?

Ans. The 2d engineer, Lewis Young.

No. 10. Was there any other fireman with you on duty at this time?

Ans. There was not.

JOHN DELANEY.

Deposition of Henry McPherson, taken before R. C. Parsons, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, January 25th, 1853.

Dep. of H. McPherson.

Witness saith:—

Ques. by Mr. Spalding.

No. 1. State what berth you had on board the propeller Ogdensburgh on the 20th of August, 1852.

Ans. I was second mate of her.

No. 2. After leaving Cleveland on the 19th, when did your watch commence at night, and on what course did you keep the propeller on your way to the Welland Canal?

Ans. My watch commenced at eight o'clock, and lasted till twelve. I kept the propeller N. E. by E. till a few minutes before twelve; then Captain Richardson came on deck and told me to steer E. N. E. I left her steering that course when I went below.

No. 3. When you went below what was the weather?

Ans. Clear; starlight overhead; the lake was smooth, and the atmosphere a little smoky.

No. 4. State what lights you left burning on the propeller when you went below.

Ans. There was two at her mast-head, or cross-trees; a red and green light, called the signal light, in front of the pilot house; these I know were burning.

No. 5. As a general rule, how many lamps were kept burning between decks?

Ans. Five or six; three at the engine, one aft, and two forward.

No. 6. How deeply loaded was the propeller?

Ans. She was drawing about nine feet water aft, and eight feet and one-half forward; she was full loaded.

No. 7. State whether there was a lamp in the binnack when you retired to rest.

Ans. There was.

No. 7. Will you now proceed and detail all the circumstances as they transpired, within your knowledge or observation, after the collision with the steamboat?

Ans. The first of my knowing anything about it was the steamboat run into us and threw me out of my berth; I got up as soon as I could and looked out; I saw the steamboat a few rods ahead of us going away from us apparently, as I heard her wheels a going. I then went forward, and found the propeller's bows knocked to pieces, her stem being knocked out of her. Captain Richardson then ordered me to go and get our boats down, and get forward and see how much she was hurt; we did so; found that the stem was all gone from the plankshear down to the water. Captain Richardson threw us down some coats and blankets to keep the water from running into her; after fixing her, we got on board of the propeller. Then Captain Richardson told me to go to the pumps and see if she leaked; I did so; kept the pumps a going; found some water in her; the two hand-pumps with the engine-pumps would keep her free from water; during the time we were alongside, the vessel was lying still.

No. 8. Did you discover Long Point light before the propeller

was started? and if so, from what part of the propeller did you see it, and over which quarter?

Ans. I discovered the light about the time the propeller was getting ready to start. Mr. Harris, the clerk of the boat, asked me what light it was. I told him it was "Long Point light." I stood on the starboard bow and saw the light over her starboard quarter.

No. 9. When you started on in the direction the steamer had gone, did you see her light?

Ans. I did.

No. 10. About how far should you judge that light was from you when you started in pursuit of the steamer?

Ans. I could not say how far off, and could just see her light.

No. 12. State if that light disappeared after a time, and if so, how long had you been running before it thus disappeared?

Ans. I was going aft at the time I saw the light to try the pump. I tried the pump, and when I came on deck again it had disappeared.

No. 13. Will you now proceed and state what followed?

Ans. We continued on in the direction of the steamer, and the next thing we heard was the screams of the passengers on the steamer. We went on to them and commenced taking the passengers out of the water. When we got up in sight of the steamer we saw a small boat just off our bow; a man hailed us saying he was Captain Petty, captain of the Atlantic, and to come and get him; I saw no one go for him, though I afterwards saw him on board. He came along forward of the cabin while I was hauling a man out of the water; he spoke to Captain Richardson, and said he was Captain Petty, captain of that steamboat; he said, "For God's sake, don't go near her, there is six hundred passengers on board, and they will sink you." Captain Petty was standing on the promenade deck, about two feet from me, and Captain Richardson was standing on top of the hurricane deck, near the pilot house; we went alongside of the steamboat, and I gave them a line to make fast so that we could lay there and get the passengers off; we got the passengers all off, and then we left her; we went two or three times around her so as to get every one that was alive, and then started for Erie.

Cross-ex. by Pl'ffs' Att'y.

No. 1. Was you in sight of land on the south shore at the time your watch commenced?

Ans. We were. When I first came on deck, we must have been a little below Grand River, about four or five miles from there.

No. 2. Was you in sight of land when you "turned in?"

Ans. I could not see any.

No. 3. About what rate did you run during your watch, should you think?

Ans. About seven or eight miles an hour.

No. 4. How long have you been engaged as a seaman?

Ans. About thirteen years: a little over that.

No. 5. At the time you say you saw the Long Point light, after the collision, which way was the propeller heading?

Ans. She was heading off to the south'ard and westward.

No. 7. Did you notice which way that light bore at that time?

Ans. It was on our starboard quarter, astern.

No. 8. How far should you think the Long Point light was from you when you first discovered it?

Ans. I could not say exactly; I should think five or six miles off.

No. 10. Did you notice what time it was when you was awoke by the collision?

Ans. I did not. I was pretty busy when I got on deck, and did not stop to look at the time.

No. 11. Could you see the Long Point light distinctly, so as to be sure what it was?

Ans. I could. It was a large bright light, so I could tell it from a steamboat's light.

H. McPHERSON.

Deposition of Ebenezer Wait, taken before R. C. Parsons, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the 25th day of January, A. D. 1853.

Dep'n of Eb'r Wait.

Witness saith:—

Question by Mr. Spalding.

No. 1. What is your age and occupation?

Ans. I am twenty-eight years of age; my occupation is that of engineer.

No. 2. What place did you hold on board the propeller Ogdensburgh, and how long have you served on board of her in that capacity?

Ans. That of 1st engineer. I have served on board of her since she started, in 1852.

No. 3. Relate what occurred within your observation at or about the time of the collision, on the morning of the 20th of August last.

Ans. At the time of the collision, I was in bed. The first I knew I was out of my berth, on the floor. It was dark in the room, and I was looking about for my boots. I got one on, when the 2d engineer opened the door, and said that a steamboat had run into us, and that we were sinking. I then went down to the engine. I found it standing still. I ordered the 2d engineer to stay there by it. I then went forward, to see what damage was done, and put my ear down on the plankshear of the boat. I listened there, to see if I could hear if any water was coming into her. I heard the water coming in. I then went back, and went to looking after the pumps. I saw the pumps were all going except the engine pump. The engine was standing still. After the leak was stopped, the propeller then

started for the steamer. At the time we started for her, I could see the steamer's light—could just discover it. I should think we were from twenty minutes to half an hour getting up to the steamer, till we stopped to pick up the steamer's passengers. Before we got to the steamer, I saw a small boat some eight or ten rods from the propeller, and heard a voice from it hail us and said: "I am Captain Petty, of the steamboat Atlantic; come and fetch me aboard." Capt. Richardson says to me: "Mr. Wait, fetch Captain Petty, as soon as he comes on board, up to me, as he may be of some service to me." I helped Captain Petty out of the boat, and as I was going forward he spoke to me: says, "Are you badly damaged?" I said "We are." He says, "You had better go right to the shore as quick as possible, for the Atlantic is full of passengers, and they will sink you immediately." (Counsel for pl'ffs object to any conversation with Captain Petty.) We proceeded on forward, until we got to the fore-rigging on the starboard side of the propeller, and then he repeated the same words; then I helped him up on the hurricane deck; when he repeated the words, he addressed himself to Captain Richardson. Captain Richardson replied "he should go alongside if they did sink him," or something to that effect.

No. 4. At the time you went to the engine, immediately after the collision, in what condition did you find it?

Ans. I did not take particular notice whether it had stopped on a half centre or on the centre. At that time, we had a full head of steam on. I gave orders to blow it off.

No. 5. What is the effect of slowing an engine for six or eight minutes?

Ans. It increases the steam very rapidly—the steam in the boiler. It must be blown off very soon.

No. 6. What has been your experience, if any, as an engineer on board of ordinary steamboats?

Ans. I have been engineer on steamboats five or six years; about four years on propellers.

No. 7. How is the comparative facility of slowing, stopping, and backing steamboats and propellers in motion, both going ahead with their ordinary speed?

Ans. A steamboat can be handled much the easiest.

Cross-ex. by Pl'ffs' Counsel.

No. 1. At what rate would the Ogdensburgh run laden as she was, the lake calm and a full head of steam?

Ans. About eight miles an hour; perhaps a little more or a little less.

No. 2. At what time did you turn in that night?

Ans. About half past one, I think.

No. 3. What rate did the propeller run while you had the management of her?

Ans. I should think about eight miles per hour; perhaps a little more or less.

No. 4. Why can a steamboat under full headway (say seventeen miles per hour) be stopped so much more easily than a propeller running eight miles per hour?

Ans. Because she generally has from three to four times the power, according to her tonnage.

No. 5. Did Captain Petty appear to be injured when he came on board?

Ans. Not as far as I could see.

Direct Examination resumed.

No. 1. State whether the engine of the Ogdensburgh could be stopped and backed immediately, the propeller being under full headway.

Ans. I think not; the water has so much action against the screw of the wheel. She has to be slowed before she is stopped and backed. It is just so with a steamboat. EBENEZER WAIT.

Deposition of Charles Tart, taken before R. C. Parsons, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the seventh day of March, A. D. 1853.

Dep'n of Charles Tart.

Witness saith: That he lives in the City of Detroit in the State of Michigan, where he has resided twelve or thirteen years. That he is married and has a family in Detroit. Deponent further says that for the last six years he has been employed as a hand on vessels and steamboats sailing on the western lakes, sometimes in the capacity of fireman on steamboats. That he was a fireman on board the steamboat Atlantic during the season of 1850, 1851, and 1852, up to the time she was lost on the 20th of August, 1852. Deponent further states that he was the fireman on duty at the time of the collision between the Atlantic and the propeller Ogdensburgh, which occurred soon after two o'clock on the morning of the 20th of August last.

That deponent was induced to go on deck from the fire-room, by hearing the rattling of the wheel chains of the Atlantic, which showed that something was to pay. On going out upon the larboard side of the steamboat abreast of the engine room, he discovered a bright light about three points off the steamboat's larboard bow, and as near as he could judge about half a mile distant. The steamboat appeared to be swinging round; soon after he saw sparks from the propeller's chimneys. Deponent then spoke to the second engineer who stood by his side, and told him he had better stop the Atlantic. The engineer replied that it was not his business to stop her until he got a telegraph or bell to stop her. The engineer did not stop the engine, and in about two or three minutes after the conversation the vessels came together. The engine of the Atlantic was not

stopped from the time deponent went on deck as above stated, until the water in the hold put out the fires, and she stopped herself. From the time when the deponent first saw the light of the propeller, up to the time of the collision, there was plenty of time for the Atlantic to have stopped and reversed her engine; and if she had done so, there would have been no collision. If the engineer had stopped or reversed the engine when deponent first spoke to him on the subject, the collision would have been avoided. The name of this engineer was Alfred Berry. If the engine of the Atlantic had been stopped and reversed, the propeller, if under sufficient headway, would have crossed the bow of the Atlantic some forty rods ahead of her. Deponent stood on the larboard side of the steamboat, abreast the engine room, some two or three minutes, and until the vessels were within about a hundred feet from each other, when he ran for his own safety to another part of the boat, believing that a collision would take place. Immediately after the collision, deponent went up to the pilot house; just as he got there Capt. Petty made his appearance, and called out to the wheelman, Morris Berry, "Hard aport." The wheelsman answered in the same words, "Hard aport," and very soon left the pilot house; and after that there was no one, as I know of, at the wheel till she sunk. Captain Petty told me then to ring the big bell, and I did so; after this the captain directed me and some others of the crew, and launch the life-boat. I hesitated a minute or so, because the steamer was then running so fast, I thought the boat would fill. She was launched, and had like to have gone under the wheel of the steamer, which was still going ahead. The boat filled with water in launching. I swam away from the steamer with one hand on the gunwale of the small boat; several others were in company holding on in the same way. We finally bailed out the boat with some hats given us by some of the passengers, so that she held us until the propeller came to our relief. At the time of the collision, the Atlantic was running under high steam, say 33 or 34 inches. She had a low pressure engine. She probably run two or three miles after the collision. During the season of 1852, before the time of the collision, Captain Petty was in the habit of shaving vessels rather closely with the Atlantic; that is, he would run his boat very near any vessel or boat that he might meet or pass, keeping her course and not turning out. Deponent recollects in one instance passing the schooner Avenger, when the Atlantic shaved her, as they call it, not passing three feet from her. Deponent says that on another occasion during the season of 1852, in coming down the Detroit River, the Atlantic overtook the scow Globe going also down the river. The scow was beating against the wind. The steamer crossed the bow of the Globe, so close that she just grazed the jib-boom, and would have cut her bow in two if she had not lapped quick.

Ques. by Mr. Spalding, attorney for claimants.

No. 1. What is your age?

Ans. I am twenty-seven years old.

No. 2. State whether the Atlantic steamer was easily managed when running in smooth water.

Ans. It was very easily.

No. 3. With the steam that was on at the time of the collision, in what distance do you suppose the heading of the Atlantic could have been stopped by stopping and reversing her engine?

Ans. I should think she would not go three times her length.

Cross-ex. by Mr. Tilden, Att'y for Plaintiffs.

No. 1. When did you come from Detroit?

Ans. I left Detroit on last Monday (yesterday) morning.

No. 2. Did you come down for the purpose of testifying in this case?

Ans. I did.

No. 3. Who sent for you?

Ans. The attorney of the claimants, Mr. Spalding.

No. 4. Who did you get a letter from?

Ans. From Chamberlain & Crawford.

No. 5. How did they know that you knew anything about the case, or that you was a fireman on board the boat?

Ans. Because I have told different people, and I suppose they told them.

No. 6. What else did they say in that letter to you? did they say anything about hiring you for the next season?

Ans. Not in the first start; they have since said they would hire me.

No. 7. When did they say they would hire you?

Ans. After I gave an exparte deposition at Detroit, about three weeks ago.

No. 8. Did you have your testimony taken before an officer at Detroit?

Ans. I did.

No. 9. Did you state the same things in that deposition you have in this?

Ans. I did.

No. 10. Did you have any talk with Chamberlain and Crawford, or any of the owners of the Ogdensburgh, before you gave that statement?

Ans. I did not.

No. 11. Who called on you to testify when you gave your deposition at Detroit?

Ans. Captain Keating.

No. 12. What did Captain Keating say to you?

Ans. He asked me if I would give my testimony. I told him I would. He asked me if I was to work anywhere. I told him I was. I told him I was at work on the Cleveland. He told me if I wanted a berth he would give me one. I told him I would take it.

No. 13. What kind of a berth did he say he would give you?

Ans. He would give me a fireman's berth.

No. 14. On what boat?

Ans. He told me I could go on the Vermont if I wished to.

No. 15. How much did he say he would give you?

Ans. He said he would give me twenty-five dollars a month the same as the rest.

No. 16. What did you get last year?

Ans. I got twenty dollars a month.

No. 17. Are you sure Captain Keating said nothing to you about hiring you before you gave your deposition at Detroit?

Ans. I am sure he said nothing to me before that.

No. 19. Did any one else tell you Chamberlain and Crawford would hire you previous to your testimony at Detroit?

Ans. Not a single one; there was not a word of it.

No. 20. State whether you are now hired to Chamberlain and Crawford.

Ans. I am, if I choose to stay.

No. 21. State whether you expect to stay.

Ans. I do not know. I shall go directly home before I decide.

No. 22. If you do finally conclude to go into their employment, when does your wages commence?

Ans. When I begin to work. I expect to be paid my expenses here and home again, to give this deposition.

No. 23. What did they agree to pay you?

Ans. They did not say anything about it.

No. 24. Did Captain Keating, at any time, or Chamberlain and Crawford, in their letter, say to you what they would give you or pay you for your trouble, if you would come down and give your testimony?

Ans. They never did, either of them, anything of the kind.

No. 25. Do you recollect the engineer on watch, and the other fireman, looking out at the larboard gangway of the steamer, and seeing the light of the propeller and talking about it?

Ans. Not the other fireman, he was in the hold. The engineer, when I came on deck, told me it was a propeller, a "Lower Laker." We went out together to look at it.

No. 26. State if you had seen the light of the propeller before it was spoken of by the engineer at this time.

Ans. I had not, I had just come up from the hold.

No. 27. Where did you go when you and the engineer left the gangway?

Ans. I went inside the boat, midships, on the main deck.

No. 28. How long was you there before the collision?

Ans. About a minute, hardly that; 'twas a very short time.

his

CHARLES + TART.

mark.

Deposition of James R. Carrier, taken before Charles Elias Scoville, United States Commissioner for the Southern District of New York, at his office in the City of New York, on the tenth day of February, A. D. 1853.

Dep'n of J. R. Carrier.

Witness saith: I reside in the City and State of New York; I wait on table in a private boarding house; during the summer of 1852, I waited on table as second pantry-man on board of the steamboat Atlantic, then plying on Lake Erie and the waters connected therewith; I was on board of her on the evening of the 19th of August, 1852; it was in Buffalo. The steamer that night left Buffalo between nine and ten o'clock for Detroit, in the State of Michigan. I waked up by the shock of the collision; I did not know exactly what time it was, I should judge as nigh as I can it was between two and three o'clock on the morning of the 20th August, 1852. The collision was between the propeller Ogdensburgh and the steamboat Atlantic, and off or near Long Point, Canada. I rushed out of bed as quickly as possible, without stopping to put on any clothing; I did not even wait to take my watch from under my head, but rushed immediately upon deck; did not stop on deck, not a minute; rushed immediately up into the upper cabin, from that right through the cabin into the pantry which was on the larboard side, or the same side on which the Atlantic was struck. There had been no alarm given, or bell rung at that time. From the pantry I went forward on the larboard side, to the point where the two vessels struck together; they came together as nigh the forward gangway of the Atlantic as I could judge; I stopped a few moments there; the Atlantic's bell rung very slow and soft; it might have been tolled a great deal harder and louder. I then ran into the pantry through the scuttle upon the hurricane deck; immediately after I got on the hurricane deck I saw Captain Petty there, the captain of the Atlantic, with his coat and hat off; it appeared to me that he was coming out of bed. I then ran to the larboard side where some persons were getting ready the yawl boat; I got into the yawl boat in order to have a seat by the time we should have her launched. I looked on the starboard side; I saw Captain Petty getting his life-boat ready and his crew also, the first mate and others of his crew; I went over to that boat. Captain Petty was saying to his crew in a loud and mournful voice, which scared me, "Come, my bullies, save yourselves." There were passengers who rushed toward the boat besides the crew; on their doing so, Captain Petty took a large piece of wood or a handspike in both hands and struck or crowded them off. We made a rope's end fast to the captain's life-boat, and launched her out; on doing so, she came bottom side up in the water; there was no convenience for launching her; she had to be rolled or shoved out; there was no tackle for launching her made fast to the boat, no conveni-

ence for getting her ready after the collision. I did not hear Capt. Petty give any orders with regard to the navigation or management of the steamer. If he had done so, I should have heard him. The speed of the steamer was not stopped until the water stopped it by the sinking of her bow. The wheelsman, I think, did not stop at his post during the time that she ran. I did not see him all the time that she run; but there was no wheelsman there part of the time. After the collision, I think, the steamer run three or four miles before stopping; I have heard the officers of the Atlantic say that she did so; I do not know what course she run. Immediately after the collision, and when I got into the cabin, the cabin lamps were not burning as was the usual custom; I did not see any signal light; I looked forward and did not see any, when I was on the hurricane deck. The signal light of the Atlantic was usually carried forward of the pilot house. Captain Petty, after getting into the life-boat on her being upset, got back again on to the wreck, and ran up and down on the wreck of the steamer in an excited state of mind; I went up to him on the deck; I got upon the deck also; I saw something that appeared to me like a light or star. I went up to the captain and said to him, "Captain, is that the light of the propeller coming towards us?" The captain had hardly ever spoken to me before, except when he wanted something, and he answered me, "Yes, my son, I think it is." I did not see anything more of Capt. Petty from that time until I saw him getting out of the boat, that I was saved in, on to the propeller. At the time of rolling the life-boat overboard, of which I have above spoken, the captain was there and Mr. Blodget, the first mate, and one of the wheelsmen, whose name I do not remember, and several others of the crew; I think the carpenter was there; I think there were three, or four, or five, others of the crew. The passengers attempted to escape in the life-boat, but the captain crowded them off. The Atlantic was not fully manned with officers; we had no regular steward, no steward on board at all, and no regular clerk. The light of the propeller, when I first saw it, was some distance off. The propeller came up to us, after I spoke to the captain, and assisted all she could in saving the passengers and crew of the Atlantic, and stayed round the place of the collision to see if she could save any more, until there was no chance of saving any more. The lights of the propeller were burning when I first saw her, as above stated, and were burning when she came up to us, and saved us. I was picked up and saved in the same boat in which Captain Petty was picked up and saved. This was by a boat from the propeller, after she came up to us. I know from my observation of Captain Petty's acts and conduct after the collision, that he made no effort to save the lives of the passengers or his boat. Captain Petty was about the first to leave the boat, and part of his crew and the first mate, Blodget, also. The propeller took me, and the others saved, to Erie, in Pennsylvania, and I, among others, went on board the Sultana at

that place, bound for Detroit. Immediately after the collision I heard the propeller's bell ring, I think; that is my impression.

JAMES R. CARRIER.

Deposition of Theodore Titus, taken before Richard C. Parsons, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the seventh day of February, A. D. 1853.

Dep'n of Th're Titus.

Witness saith:—

Ques. by Mr. Spalding.

No. 1. What is your age and residence?

Ans. I am fifty-eight years of age, and reside at Detroit.

No. 2. Please to state if you was a passenger on board the steamer Atlantic at the time of her collision with the propeller Ogdensburgh on the 20th of August last; and if so, what are the particulars that fell under your observation, and conclude by giving your opinion as to the fitness of the captain and officers of that steamboat for the duties of their respective stations.

Ans. I went on board the steamer Atlantic at Buffalo, immediately upon the arrival of the cars from Albany, on the night of the 19th of August last; my son, Ellett H. Titus, aged twenty-three years, was with me; we procured our tickets and took a state-room together; the state-room was on the larboard side, abaft the wheel-house. I awoke previous to the collision, say ten minutes, and requested my son to open the window and pull back the curtain or blind; it was sultry and warm, and I wanted air. His berth was directly over mine; we were in conversation at the time of the collision. I said to him, when the collision took place, "We had better get up." He said, "No, father, all's right; no bell and the engine in motion." I laid back in my berth, and in about a minute he said, "Father, all is right; no bell, engine in motion, and I presume it was nothing but a log got under the wheel-house." We lay quiet for the space of two or three minutes after the collision; the first alarm of danger was by some one running through the cabin crying out, "The boat is sinking." Just at that time the bell tolled; this was the first time the bell was struck. My son got dressed first; I followed shortly after with two stools, called life-preservers, and immediately went on to the hurricane deck. I think I was the fourth person on deck, and about one minute after we got on the hurricane deck, the captain came there, after he had made an attempt to launch the life-boat. I know that fact because the captain said so. At or about that time, the engine was stopped by the water, and the forward part of the boat was settling downwards. My son, in my hearing, asked the captain what was the depth of the water. The captain answered the deepest water in the lake. My son says, "Captain, what would you advise?" His answer was, "Save yourselves." The captain then sprung up on to the top of the wheel-house, and raised

the trap-door of the wheel-house, and attempted to wrench it off from its hinges; he could not do it; my son and myself immediately came down on to the forward deck; at that time the water was on the forward deck, near the gangway. The life-preservers were of no use to us whatever, and we saved ourselves by means of part of a table until we were taken aboard of the propeller. I don't know anything about the other officers of the boat, but, judging from the captain's conduct after the collision, I should judge that he was not competent for the position he occupied; he was not cool or collected, made no provision whatever for the safety of the passengers; he tried to get the small boats lowered when the steamer was under full headway, and they were both swamped; the third boat half dozen of the crew got into, and paddled it away from the steamer with their hands. Then all hopes was cut off for the passengers, so far as the boats were concerned.

No. 3. What was the conduct of the captain and crew of the propeller Ogdensburgh, so far as the same came under your observation?

Ans. Manly, noble, and generous.

No. 4. I wish to know if the engine of the steamboat was stopped or checked at all either before or after the collision.

Ans. I think not until it was stopped by water; I judge so from the reason that when we got upon the table in the water, the propeller was a long way off from the steamer; could just see her light.

No. 5. What provision did Captain Petty make for the comfort of his passengers after your arrival at Erie?

Ans. None whatever. He overtook the cars for Buffalo, and did not show himself to the passengers.

Cross-examined by Plaintiffs' Counsel.

No. 1. Are you or your son acquainted with steamboating?

Ans. I am not, anything more than as a passenger; I have travelled upon them a great deal; my son has been employed on steamboats on the Mississippi.

No. 2. What did you understand your son to mean when he said all safe, no bell?

Ans. I inferred from that if there had been any danger the alarm would have been given, and the engine stopped. The second time he said all right, it gave me more confidence. I knew he was accustomed to steamboat navigation.

No. 3. How far was the steamer struck by the propeller from where you slept?

Ans. I do not know only from information. She was struck forward of the wheel-house. I slept aft.

No. 4. How long do you think you lay in the berth after the collision?

Ans. I should think, taking all things into consideration, between two and three minutes.

No. 5. Did you not, before you got up, hear cries of alarm from

the passengers, and was there not a great deal of confusion on the boat at the time you left your state-room, as you stated?

Ans. I heard the alarm that the boat was sinking. I immediately got up, drew on my pantaloons, and very few of the passengers had left their room at the time I got out. I did not see but one man, woman, and child, until I got up on top of the hurricane deck. I helped them up myself; then the confusion was great.

No. 6. Did you proceed, immediately after leaving your state-room, to the hurricane deck?

Ans. I did.

No. 7. State if, while you was on the hurricane deck, you saw the boat was sinking forward before you left it.

Ans. I did.

No. 8. How long was you on the hurricane deck should you think?

Ans. Not to exceed two minutes, probably not more than one.

No. 9. State if, when you came down on to the promenade deck, any portion of it was under water.

Ans. It was about ankle-deep near the gangway. The bow pitched down forward at an angle of about twenty or thirty degrees, at the time the passengers were jumping overboard, and treading each other under water.

No. 10. State if you saw anything censurable in the conduct of the captain, until after the accident occurred, and only then a want of nerve.

Ans. I did not; for I did not see him or speak to him at all. I mean I did not speak to him until I saw him on the hurricane deck. I thought any man who had his senses about him would not attempt to launch the life-boat when the steamer was under full headway. I did not think any competent captain would permit it to be done.

No. 11. Was the engine in motion at the time you left the state-room?

Ans. I think it was.

No. 12. Can you speak confidently about it?

Ans. At the time of leaving the state-room the bell tapped, and when I got on to the hurricane deck the engine was stopped; that I am certain of. It was in motion up to that time, I am confident of. It was the boat bell I mean, and not the engine bell.

No. 12. Would you have been likely to have heard the signal bells to the engine, if they had rung?

Ans. I think not; but the main bell I should have heard.

Resumed Examination by Claimants' Counsel.

No. 1. You may state what appeared to be the principal endeavor of Captain Petty, when under your observation; whether to promote the safety of his passengers, or that of some other person; and if some other person, whom.

(Question objected to by plaintiffs' counsel.)

Ans. I saw him do nothing for the safety of his passengers; his sole object seemed to be to save his own life.

No. 2. Can you tell whether the boat was heading up the lake when she went under?

Ans. I cannot.

No. 3. About how many passengers were lost?

Ans. I have no means of judging accurately; judging from all the circumstances, and the stories, &c., about it, I should think about two hundred and fifty.

No. 4. You may state whether these persons perished before or after the propeller came up.

Ans. I think before. THEODORE TITUS.

Deposition of E. W. Brigham, taken before R. C. Parsons, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the seventh day of February, A. D. 1853.

Dep'n of E. W. Brigham.

Witness saith:—

Question by Mr. Spalding.

No. 1. What is your age and occupation?

Ans. I am twenty-five years of age; occupation, that of a sailor.

No. 2. How long have you been engaged in a seafaring life?

Ans. Eleven years.

No. 3. What has been your experience in the navigation of the lakes?

Ans. I have been eleven years upon the lakes. During the last four years I have been two seasons mate of a vessel, and two seasons master of a vessel.

No. 4. Will you state if you was on board the Atlantic steamer at the time of her collision with the propeller Ogdensburgh, on the morning of the 20th of August last?

Ans. I was.

No. 5. State in what capacity.

Ans. I was a passenger on board of her.

No. 6. Will you give an account of her trip from Buffalo until you left the wreck?

Ans. We left Buffalo between ten and eleven o'clock in the evening of the 19th of August, with a very large load of passengers. After leaving Buffalo, I did not go on deck until twelve, or about twelve o'clock; then I went upon the promenade deck forward; I stayed there and in the pilot-house about two hours. While there on deck, I heard the second mate of the steamer say to the man at the wheel, "There's a light ahead, port your wheel." The wheel was put aport. I then looked out and saw two white lights, from ½ to ¾ points over our larboard bow. At this time the steamer was swinging round. As near as I can judge, the lights were about a mile off when the

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mate spoke to the wheelsman and told him to port his helm. I had not observed them until this order was given. The vessels continued to draw near to each other. We were under full speed. About half a minute after the mate gave the order to port the helm, he cried out hard aport; and then I jumped into the pilot-house, and helped the man put the helm hard aport. By the time the wheel had been put hard aport, the vessels were pretty near to each other; before I got out of the pilot house they came together. When I came on deck at twelve o'clock, the steamboat was steering S. W. by W.; the mate has since told me that was the course he steered from Buffalo up to Long Point light, and that he steered S. W. by W. ¾ W. He also told me that the compass had some local attraction so as to vary from a half to three-quarters of a point, I should think. Immediately after the collision I was talking with the second mate, and he told me the reason he did not stop his engine was that the steamer had lapped by the propeller's bow, and thinking the propeller's wheel was aport, he thought he could clear her. He said he went up to the bell for the purpose of stopping the engine, but before he got there the steamer had lapped by the bows of the propeller.

No. 7. In your judgment, what should have been done on board of the steamboat to have prevented that collision, when it was found that the vessels were fast drawing near to each other?

Ans. If I had been in the second mate's place, I should have checked her down. I should have done this so as to ascertain what the other vessel was doing; and then, if necessary, I should have stopped and backed her. I think common prudence and good seamanship required this should have been done.

No. 8. How long was the steamer delayed by the collision, and what became of her afterwards?

Ans. When she struck, she was not delayed any; it merely rolled her down with her guards to the water, and on she went. She did not stop any until the water came in and stopped her engine. After leaving the propeller I heard the mate give the man at the wheel the order to steer her N. and by W.

No. 9. Where would that course have taken her, on to the land, or off shore?

Ans. On to the land.

No. 10. Where did she finally sink, in shoal water or deep water?

Ans. In deep water, about as deep as any on the lake.

No. 11. How long before the propeller got alongside of you, and when she came, what lights did you see displayed on board of her?

Ans. I should think from a half to three-quarters of an hour after the collision. I saw two white lights at her cross-trees, and a green light top of her pilot house, or near the top of it. There were other lights about the vessel.

No. 12. What was the conduct of the officers and crew of the propeller when they got near enough to you and offered relief?

Ans. They did all they could, as far as I could see; they did as

well as any men could do. The propeller came up towards the steamer's bows. There was such a rush on board the steamer to get aboard the propeller, that Captain Richardson backed off in order to keep the passengers from jumping on her bow and sinking her. He then came up again and shoved off to port, run off a short distance, and backed up to the steamer. In this way saved all that was on board the steamer; after this he started and went around the wreck two or three times slowly, and made sure he had got all the passengers. In the mean time, his boats were playing round picking up all they could find.

No. 13. What did the second mate say he took the propeller for?

Ans. He took her for a vessel standing to the southward.

E. W. BRIGHAM.

Deposition of William Barnes, taken before R. C. Parsons, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, March 26th, A. D. 1853.

Dep'n of Wm. Barnes.

Witness saith: I reside at Hennepin, Putnam County, and State of Illinois, and am twenty-three years of age; that during the season of 1852, I was one of the crew of the propeller Ogdensburgh, running between Ogdensburgh, New York, and Chicago, in the State of Illinois. I was at the wheel of the propeller at the time of the collision with the steamer Atlantic. I came to the wheel at twelve o'clock at night of the nineteenth of August last, and continued steering until after the collision, which took place at two or two and one-half o'clock on the morning of the twentieth. Mr. McNett, our first mate, had the watch on deck; when I took the helm, our course was east northeast, but it was soon changed to northeast by east, and we continued on that course until the instant of collision. The night was calm and still, very little wind, and what there was, was from the south'ard or south'ard and westward. It was starlight overhead, but smoky on the water. Somewhere about two o'clock, I looked out of the starboard side of the pilot house, and saw a vessel's light some two points or two and one-half points off the propeller's starboard bow, distant, as near as I could judge, about three miles. I was just going to speak of it, when Mr. McNett spoke to me, and asked if I saw that light off the starboard bow. I told him I did see it. He then went towards his room on the larboard side, and returned immediately, with his overcoat on his arm. He then went up on the hurricane deck, and took his station close to the top of the pilot house; after being there two or three minutes, I heard the bell wires move as if giving a signal to the engineer. I did not hear the bells at the engine, but I knew almost immediately that "she was slowed." She was run in this way, with speed checked down to two and a half or three miles an hour, for from four to six minutes, when I found by the jerking of the wheel, that the engine had been reversed

for the purpose of backing her. About this time Mr. McNett gave the order to put the wheel a-starboard. The steamboat was then close on to us, and I suppose the wheel was put a-starboard to prevent her coming on to us as hard as she otherwise would.

By the time I had got the wheel hard a-starboard the vessels came together, when the steamer turned us partly round, and went on her course up the lake. When the collision occurred the propeller had no headway on her of any consequence. She might have had a little, but if any, it was very trifling. Just before Mr. McNett told me to put the wheel a-starboard, I heard him call out as if addressing the people on the steamboat, and say: "Where the hell are you coming!" I had noticed her nearing us before, and I then looked out and saw the steamer steering right across our bows, and they very soon came together.

Ques. by Mr. Spalding, attorney for claimants.

No. 1. Upon the supposition that the steamboat was steering southwest by west ¾ west, and the propeller northeast by east, when their respective lights were discovered, they being distant from each other from two to three miles, if each vessel had held on its course, could there by any possibility have been a collision?

Ans. Certainly not. They would have passed each other on the starboard side, from one-half to three-fourths of a mile apart.

Cross-ex. by Mr. Tilden, Att'y for Pl'ffs.

No. 1. If each vessel had kept its course, you say the steamer would have passed the stern of the propeller from ½ to ¾ of a mile; now will you explain in what way the steamer's course was changed to bring about the collision?

Ans. The steamer must have kept further to the north'ard. She must have put her helm aport.

No. 2. How far in your estimation was the steamer off, when you first saw her lights over your starboard bow?

Ans. As near as I can judge, she was about three miles.

3. How far was you from the steamer when you first heard the bell wires move?

Ans. I could not say. It might have been a mile, and might have been half a mile. I could not now guess very near.

4. Was the hull of the steamer plainly in sight?

Ans. No sir, she was not.

5. If you was but a half a mile off when you first heard the bell wires, it could not have exceeded two minutes until the collision occurred, could it?

Ans. It could not the way she was running, but I suppose she was further off than that. I could not say how far she was off.

WILLIAM BARNES.

Deposition of John S. Warner, taken before R. C. Parsons, United States Commissioner for the district of Ohio, at his office in the City of Cleveland, March 26th, A. D. 1853.

Dep. of Jno. S. Warner.

Witness saith:—

No. 1. What is your age, residence, and occupation?

Ans. I am forty-eight years old, reside in Jefferson County, State of New York, and by occupation am a sailor.

No. 2. Please to state what your experience has been in the navigation of the western Lakes.

Ans. I have sailed on these lakes ever since 1817; I have had charge of steam vessels, steamboats, and propellers, as master and mate for about twenty-one years.

No. 3. If you had been in charge of the propeller Ogdensburgh on the morning of the 20th of August, 1852, steering N. E. by E. for the Welland Canal, and had made the light of the steamboat Atlantic bound for Detroit, two or two and a half points off your starboard bow, distant, as you judged, from two to three miles, how would you have conducted the management of your vessel? What would good seamanship and a due regard to the safety of life and property have required at your hands?

Ans. I should have kept my course; if by the bearings of the steamer's light I saw that the vessels were nearing each other, I should have slowed my engine, and if I saw there was any danger of a collision, I should have stopped my engine and backed her. I consider this as the only prudent course to have pursued. That is my course, and the one I have invariably adopted.

No. 4. If you had been in charge of the steamer Atlantic running sixteen miles an hour, and had made the light of the propeller a half point over your larboard bow within two miles of you, what precautionary steps, if any, would ordinary prudence have required at your hands?

Ans. If I had any doubts as to the propeller's course, I should have slowed my engine, and if the vessels kept nearing each other I should have stopped the boat.

No. 5. If the Atlantic's helm had been put "aport" for a ½ minute, and then "hard aport" for another half minute, she running sixteen miles an hour in smooth water, how would she have headed at the expiration of the last half minute, admitting her course to have been S. W. by W. ¾ W., when her helm was first put "aport?"

Ans. It is my impression that the boat going at that rate would have swung round from six to eight points.

No. 6. Which is checked, and stopped, and turned from her course with the greatest ease and facility, a steamboat like the Atlantic, or a propeller like the Ogdensburgh?

Ans. The steamboat is the quickest checked and stopped; as to turning them from their course, I do not know that there is much

difference. In the case of one wheel propellers, in turning one way she can be turned very quick; in the other, she must have strong headway to make her answer her helm.

Cross-ex. by Mr. Tilden, Att'y for Pl'ffs.

No. 1. What vessel did you sail last year?

Ans. I was mate of the steamboat New York on Lake Ontario. I am now master of the propeller Cleveland, belonging to Chamberlain & Crawford.

JOHN S. WARNER.

Deposition of William H. Witmore, taken before R. C. Parsons, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, March 26th, A. D. 1853.

Dep. of Wm. H. Witmore.

Witness saith:—

Question by Mr. Spalding, att'y for claimants.

No. 1. What is your residence, age, and occupation?

Ans. I reside at Middleton, Wood County, Ohio, am thirty-three years old, by occupation a sailor.

No. 2. Please state what your experience has been in the navigation of the western lakes.

Ans. I have sailed the lakes for nineteen seasons. I have been on a steam vessel sixteen years, thirteen of which as master and mate, have been on different steamboats, master on one, and mate on the next. I was master of the steamer Gen'l Vance, am now master of the propeller Michigan, owned by Chamberlain and Crawford.

No. 3. If you had been in charge of the propeller Ogdensburgh on the 20th of August last, steering N. E. by E. for the Welland Canal, and had made the light of the steamboat Atlantic on her way to Detroit two or two and one half points off your starboard bow, distant as you judged from two to three miles, how would you have conducted in the management of your vessel? What would good seamanship and a due regard to the safety of life and property have required at your hands?

Ans. I should have held my course and watched the lights closely, and if I became uncertain as to her course, I should have checked and stood ready to back or go ahead, as occasion might require. If I saw the vessels nearing each other, I should have stopped and stood ready to back if necessary. If there was any danger of a collision I should have backed her.

No. 4. If you had been in charge of the steamboat Atlantic, running sixteen miles an hour, and had made the light of the propeller ½ point over your larboard bow, within two miles of you, what precautionary measure, if any, would ordinary prudence have required at your hands?

Ans. If I had known her to be a steam vessel, and supposed her to be coming towards me stem on, I would have ported my helm ½ a point in the first place, then if I saw that did not take me clear, I would have checked and stopped if necessary.

No. 5. If the Atlantic's helm had been put "aport" for a half minute, and then "hard aport" for another half minute (she running sixteen miles an hour, and in smooth water), how would she have headed at the expiration of the last half minute? admitting her course to have been S. W. by W. ¾ W., when her helm was first put "aport."

Ans. I should say northwest, or further to the north'ard.

No. 6. Which is checked, and stopped, and turned from her course with the greatest ease and facility, a steamboat like the Atlantic, or a propeller like the Ogdensburgh?

Ans. A steamboat like the Atlantic.

No. 7. How does your experience teach you in regard to a propeller forging ahead after the engine is reversed, and back revolutions have commenced?

Ans. They will forge ahead a great way after the engine is stopped and reversed. It depends on the quantity and weight of their load; the heavier the load the more difficult to stop.

W. H. WITMORE.

Deposition of David P. Nickerson, taken before R. C. Parsons, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, March 26th, A. D. 1853.

Dep'n of D. P. Nickerson.

Witness saith:—

Ques. by Mr. Spalding, att'y for defendants.

No. 1. What is your age and occupation, and where is your place of residence?

Ans. I am forty-four years old, by occupation a sailor, and I reside in Ohio City, Ohio.

No. 2. State what your experience has been in the navigation of the western lakes.

Ans. I have been engaged in my profession on the lakes for nineteen years; have been master of steam vessels for thirteen years.

No. 3. If you had been in charge of the propeller Ogdensburgh, on the morning of the 20th of August, 1852, steering N. E. by E., for the Welland Canal, and had made the light of the steamboat Atlantic, bound for Detroit, two or two and one-half points off your starboard bow, distant, as you judged, from two to three miles, how would you have conducted in the management of your vessel? What would good seamanship and a due regard to the safety of life and property have required at your hands?

Ans. I should have kept my course; I should have taken the bearings of the steamboat's lights, and if she had not opened her lights,

I should have checked my engine; if I found the vessels were coming together, I should have stopped, and if necessary backed my engine. I should probably have given the alarm by ringing my big bell. This course I always take when I am not certain of the position of the other vessel.

4th. If you had been in charge of the steamer Atlantic, running sixteen miles an hour, and had made the light of the propeller a half point on your larboard bow, within two miles of you, what precautionary steps, if any, would ordinary prudence have required at your hands?

Ans. If she was bearing in that position, and the propeller steering N. E. by E., she must have seen the propeller's green light and bright light. I should have ported my wheel and checked my engine. If I saw, then, that the vessels were coming together, I should have stopped my engine and backed her. By the "bright light" I mean the light at the cross-trees.

5. If the Atlantic's helm had been put "aport" for a half minute, and then "hard aport" for another half minute (she running sixteen miles an hour, and in smooth water), how would she have headed at the expiration of the last half minute, admitting her course to have been S. W. by W. ½ W. when her helm was first put "aport?"

Ans. I should think, going at that speed through the water, she would have swung at least six points. That would have brought her around to northwest; and I don't know but she would swing more than that.

6. Which is checked, and stopped, and turned from her course with the greatest ease, a steamboat like the Atlantic or a propeller like the Ogdensburgh?

Ans. A steamboat would be the easiest turned from her course, and she could also be stopped the quickest, for the reason that the power is more directly applied in the steamer than in the propeller.

7. What description of vessel do you now command, and what is her name?

Ans. I am master of the steamboat Alabama.

8. Are you now, or have you ever at any time sailed in the employ of the claimants, Chamberlain & Crawford?

Ans. I am not, nor ever have been.

9. Will you please to state the names of some of the steamboats and propellers that you have commanded or sailed upon in some other capacity on the western lakes?

Ans. I first sailed the steamboat Eclipse; then the Bunker Hill (steamboat); then the steamboat Ohio; then the steamboat Saratoga; propeller Cleveland, and the steamboat Alabama.

Cross-ex. by Claimants' Att'y, Mr. Tilden.

No. 1. If you had been in command of the steamboat, and had seen nothing but the white lights of the propeller at her cross-trees,

bearing ½ a point off your larboard bow, what course would you then have taken?

Ans. I should have put my wheel "aport," supposing it to be a sail vessel's light, and that would indicate a vessel going before the wind. If I found the vessels were coming together, I should have stopped my engine, and backed her if necessary. When I was master of the steamboat Bunker Hill, I met the brig Fashion in the night; I made her light ½ a point off my larboard bow. I then put my wheel "aport," and changed my course one point to the westward. I found that the vessel had put their wheel a-starboard, and by means of her putting her wheel "a-starboard," I did not open her lights. I then hove my wheel "hard aport," and she hove her wheel "hard a-starboard," and followed me up (her helmsman said that was his orders, to keep the bearing of our light in a certain position). The consequence was, they run into our wheel-house. I could not have avoided it, steered as I would, they following my light.

No. 2. In the case you have referred to, had the Fashion put her helm "hard aport" instead of "hard a-starboard," would there have been a collision?

Ans. No, sir, there would not; and if the Fashion had kept her course, as she was bound to do, there would have been no collision. She had her starboard tacks aboard, with the wind on her quarter, running eight or nine miles an hour.

No. 3. In this case, why did you not slow or back your engine?

Ans. I was in hopes that I would run by her bows, and she would pass astern of us. If I had stopped, she would have run into us, because she was steering for our light. I hailed him three times to put his wheel "aport" before she struck.

No. 4. It is in proof that the propeller struck the steamer some fifty feet back of her stem; now, this being so, had both vessels put their helms "hard aport," when half a mile distant from each other, would there have been, in your opinion, any collision?

Ans. If the propeller's headway had been stopped, changing her helm would not have changed her position. If neither had checked their engines, and the steamboat bearing two points or two points and a half off the propeller's starboard bow, it would have brought them very near together, if it had not produced a collision, by both "porting their helms."

No. 5. Had you discovered the light of a steamer six miles off Long Point in calm weather, what conclusion would you have come to as to the course she was steering?

Ans. If I was to the westward of her and could see her signal lights, I should conclude it was a steamer running up the north shore, and her course to be W. S. W., or W. by S. ½ S.

No. 6. If you saw her green light alone, what would you conclude?

Ans. It would make no difference what light I saw, I should think she was steering the same way.

8. Had you been upon the propeller, knowing this to be the course of the steamer, and discovering her lights from three to four miles off, you bound to the mouth of the Welland Canal, would you not have put your "helm aport?"

Ans. I would not; if I had made her lights bearing from two to two and a half points off my starboard bow, I should have kept my course.

No. 9. Had you been in command of the propeller, and so near the steamer as to plainly see her hull, and being under headway, which way would you have put your helm (under the circumstances in which these vessels came together)?

Ans. If I had seen the steamer directly ahead of me, and could plainly see her hull, I should of course have put my helm "aport" or in any way to avoid a collision.

No. 10. If the steamer was running at the rate of seventeen miles an hour, and saw the signal lights of the propeller when only half a mile distant, would the result, in your opinion, have been changed by the steamer slowing her engine?

Ans. It would. I think the collision would have been avoided. She could have stopped her headway in that space.

No. 11. Supposing the propeller still under full headway, what then would have been the result?

Ans. I think then it might have been avoided; or if the vessels had come together, they would have come very light.

Direct Examination resumed.

No. 1. Will you state whether it be a difficult matter or not to avoid a collision between two steam vessels in a still night on Lake Erie, and what precautionary measures are usually adopted to prevent such collision?

Ans. It is not a difficult matter to avoid a collision if there is a proper lookout kept, and in case of meeting boats running opposite courses, it is customary for each to port their wheel; and when this course is adopted there will not be a collision. When two steam vessels are approaching each other, and their proper position and course doubtful, the true method is to stop their engines until the position of each vessel is understood. D. P. NICKERSON.

Deposition of Chester Warner, taken before R. C. Parsons, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, March 26, A. D. 1853.

Dep'n of Chester Warner.

Witness saith: I reside at Lasalle, Lasalle Co., Illinois, and my age is twenty-three years. I am at present engaged as foreman on the Illinois Central Railroad. I was formerly engaged as a seaman on the lakes; had been engaged four seasons in that business. On the 19th of August last I took passage on the steamer Atlantic from

Buffalo for Detroit. We left Buffalo about half past nine o'clock P. M. I retired to rest in my state-room soon after leaving Buffalo, and at some time in the night, say from five to ten minutes before the collision, I got up and went out on the promenade deck forward of the cabin. I went out of the passage way on the starboard side forward, and then walked to the centre of the boat forward of the cabin and just below the pilot house; from this point I discovered the light of a vessel a little on the larboard bow of the steamer, not over one point, I think. It was a white light I saw; I can't say how far distant. It appeared to be some distance off. I stood there about a minute, and then walked aft on the starboard side; remained aft four or five minutes, then came back to the forward part of the boat, near my former position under the pilot house. I now saw the light plainly. The lights I noticed were two lights at the cross-trees; and I think I saw the three-cornered signal light near the top of the pilot house. I knew at this time she was a propeller. She was then very near; we were within fifty feet of each other; our steamer was under full headway, and we came together with a great crash, while I was looking on. As near as I could see, the steamer continued on her course, and carried the propeller partly around with her, in the direction she, the steamer, was running. After the collision, the steamer continued running till the water put out the fire and stopped the engine. Immediately after the collision, I went aft and got my trunk. My object in getting my trunk was that it was light, and I thought it would assist in floating me; with it I came up on the hurricane deck. In getting upon the deck to go after my trunk, I noticed the walking beam of the engine was working freely. From the hurricane deck I was taken off by the propeller. When the propeller came alongside to take me off, I noticed she had all her signal lights displayed. The officers and crew of the propeller, when they came to our rescue, acted very coolly and discreetly, and did all they could for us.

Ques. by Mr. Spalding, att'y for claimants. 1. If you had had charge of the steamer Atlantic at the moment when you first discovered the light of the propeller, what precautionary measure would you, as a prudent man and a good seaman, have adopted to insure her safety and the safety of the other vessel?

Ans. In the first instance I should have endeavored to ascertain the course of the approaching vessel, by comparing or ranging her lights with a star or some other fixed object. If I discovered that she was nearing us, I should have checked the steamer's speed by slowing the engine, and if the proximity became hazardous, I should have stopped and backed the engine as circumstances required. If I found that her course would take her clear of us, I should have kept on my course.

No. 2. You say you saw the two white lights at the cross-trees of the propeller just before the collision; did you take notice particularly

of the triangular light at the top of the pilot house, so as to be enabled to distinguish them from the white lights?

Ans. I could not say that I took particular notice of any particular object. I think, however, I saw the red light, but I have no recollection of seeing the green light. The position of the boat was such, if I recollect right, that I think the red light would be more readily seen than the green one. I am under the impression that the red light was on the starboard side.

No. 3. How positive are you that steamboats carry their red light on the starboard side?

Ans. I am not positive at all.

4. If the propeller was placed directly in front of you, at a little distance off, in the night, which light would you be apt to see first?

Ans. I should think the red light would show most prominent.

5. Do you know how long the lights of the propeller had been discovered by the officers in charge of the steamer before you went on deck?

Ans. I do not know.

Cross-ex. by Mr. Tilden, Att'y for Libellants.

No. 1. Do you mean to say that, at the time of the collision, the starboard signal light was toward you, and that if you saw any signal light at all, it was the starboard light?

Ans. At the time when the boats struck, of course the larboard side was toward me; but at the time when I first saw the signal light, was when I came round from the after part of the boat. I saw the red light, and I should think, when I came forward the last time, the position of the boat was such, I should look upon the starboard side of the propeller. I would not be positive as to that, however.

No. 2. Do you mean to say if you saw the signal light at all before the collision, it was the red light?

Ans. It was the red light, if I saw any. I have no recollection of seeing any other.

No. 3. Are you sure that you saw any signal light that night before the collision, and have you not stated that you could not be at all positive upon this point?

Ans. I think all I have said upon the subject was, that I thought I saw it, but could not be positive. I now think I saw it, but cannot say positively.

No. 4. What was your position on the Atlantic, at the time when you first saw the white light of the propeller?

Ans. I was near the centre of the boat, right forward of the pilot house, on the promenade.

No. 5. Are you at all certain as to the time which intervened between your first seeing the light of the propeller and the collision?

Ans. I had no means of judging the time, except by my judg-

ment. I did not look at the watch. It may have been five minutes more or less.

No. 6. Some of the witnesses have said that when they first saw the propeller's light it looked like a star; how did it appear to you?

Ans. I thought it was a vessel's light when I first saw it.

7. Did you see more than one light?

Ans. I did not notice but a single white light when I first saw the vessel.

8. If it had been a vessel's light, would not the course that the steamer was going have cleared it in still weather?

Ans. I think if the other vessel had been stationary it would.

2. Was it not calm and starlight that night?

Ans. I think there was a very little breeze from the south. It was starlight overhead, but smoky on the water.

10. I ask you now, as a sailor, if, seeing that white light one point over the larboard bow, could it not have been cleared easily by putting the helm of the steamer "hard aport" at the time when you first saw it?

Ans. I should think it could, if the helm was put "hard aport" and kept there.

11. Had you been at the helm of the steamer, would you not have considered it safe to put the helm "aport," and not "hard aport?"

Ans. That would depend upon the position and course of the other vessel. I should presume, if I had been there, I should only put my helm "aport;" it would depend, however, upon the course of the other vessel. If I thought she was going to the north'ard, and cross our bows, I should have put my helm a-starboard.

12. Can you test anything by ranging, when a vessel is coming straight towards you?

Ans. All you can tell is, that if the vessel is coming directly towards you, and you going towards them, if you can get some fixed object in the rear, of course, if the vessel comes directly towards you, the fixed object will keep in range in the rear.

13. Can there be any doubt, if both vessels, at the time when you first saw the light of the propeller, had put their helms "aport," they would have passed each other in safety?

Ans. I think if they had both put their helms "aport" they would have passed each other. If both had varied their helms a little, and then kept their boats steady, they would have cleared, that is, allowing the propeller to have been coming directly towards the steamboat at the time I first saw the light.

14. If, at the time you first saw the light of the propeller, the propeller knew the course of the steamer to be S. W. by W., could she not have easily avoided a collision by putting her helm "aport," the steamer putting her helm "aport?"

Ans. I think they could. If, when I first saw the light, both

vessels had put their helms "aport," allowing the propeller to have been coming directly on or nearly on to the steamer.

Question by Mr. Spalding.

1. State whether your experience, as a sailor, has altogether been confined to sail vessels, or whether you have been on board steamboats as a navigator?

Ans. Altogether on sail vessels.

CHARLES WARNER.

And now, at this day, to wit: on the third Tuesday of October, A. D. 1856, at the time and place first herein aforesaid mentioned, came the parties, by their attorneys, and thereupon this cause came on to be heard.

Depositions read as evidence on behalf of the libellants, to wit:—

Deposition of Charles C. Blodgett, taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the seventh day of October, A. D. 1854.

Deposition of Chas. C. Blodgett.

Questions propounded to Chas. C. Blodgett by Captain Gardner.

1st. What is your age, occupation? How long have you been a sailor, and in what capacity? What position do you occupy at the present time?

Ans. I am twenty-seven years of age. I am a mariner, have been one twelve years, in all capacities, up from cook to master. I have been mate and second mate, on steamers, for five years. I am now master of a steamer.

2d. Do you remember the collision of the S. B. Atlantic and propeller Ogdensburgh, near Long Point, on the 19th of August, 1852?

Ans. Yes, sir, I do.

3d. Which vessel was you on board of, and in what capacity? Who were the officers of your boat? and had she a full complement of men?

Ans. On board the steamer Atlantic, as mate. Capt. Petty was master, Mr. Carney was second mate, Morris Berry was one wheelsman; there were two others, whose names I do not now remember. The Atlantic had on board a full complement of men.

4th. What was the character of your captain, second mate, and Morris Berry, your wheelsman, and how long had you known each?

Ans. I had known Capt. Petty seven or eight years, and had sailed with him all of the three years before the collision, and a good deal before that. I had known Carney some three or four years before the collision. He had been wheelsman and second mate two years before the collision. He was made second mate the season of the collision. I considered him a good seaman, competent to be second mate of any steamer. I had known Morris Berry about two years.

I considered him a good wheelsman, as good a one as I ever saw on a steamboat, and I would as soon have him to-day as any one I ever saw.

5th. State whether or no the Altantic was well equipped and manned, and furnished in all respects, and stanch and strong built vessel.

Ans. She was.

6th. Describe particularly her signal lantern, and the place where it was located, and the character of its light; and what other lights she carried, and whether or no they were the usual lights carried by steamers of her class in 1852.

Ans. She had the usual lights that steamers carry. Her signal light was carried on the forward part of the mast, about fifteen feet above the promenade deck, and about six feet above the top of the pilot-house, in front of the pilot-house. The signal light was as good a one as I ever saw on the lakes; it had patent reflectors in it. She had two white lights front of the promenade deck; they were large-sized globe lamps, bought for head-lamps. She had the other lights usually carried by other steamers on the lake that season.

7th. What was the first intimation you had of the collision, and what did you first do?

Ans. The coming together of the boats awakened me. I got out on deck as soon as I could. I was asleep at the time of the collision.

8th. How was the propeller situated when you first saw her, and what particular observation did you make of her signal colored lights, and her cross-tree lights?

Ans. She was heading nearly at right angles, stem on to our broadsides. I saw two white lights at the propeller's masthead; those were all the lights I could see on her. I could not see any signal lights. The lights at the masthead were very small lights. I was looking right straight at the pilot-house, and if there had been any signal lights visible I should have seen them. I saw none. She was not over half the length of the propeller from me when I saw her. She was clear of us when I saw her. I don't think it was more than four or five seconds from the time the vessels struck before I was on deck and saw the propeller. I don't think it was as long as that. When I saw the propeller she had just cleared her bow from the Atlantic, and her bow was but a few feet from the Atlantic.

9th. What examination did you then make of the wound in the Atlantic, and describe it?

Ans. I took a hasty look at it, and became satisfied that the boat would sink. I should judge the decks of the Atlantic were stove in nearly up to the main hatch in the centre of the boat.

10th. What orders were given to trim the boat, and were they obeyed, or not?

Ans. I gave orders to the second mate to trim the boat over to the starboard. He did so, and I assisted him in so doing. We

trimmed her down so that her starboard guard was under water; so that the water came into her gangway.

11th. How far to the northward of her course should you judge the Atlantic to have been headed when you came on deck, and what order did you give the wheelsman, and what was his reply, and why did you give this order? Explain fully.

Ans. Two or three points, and was on the swing then to the starboard. The second mate told me we had just passed Long Point light; and I told him to steer north by west, that being to the nearest point of land. He said the second mate had ordered him to steer that course, and that she was steering nearly that way then. I gave the order because I wanted to run her on to the beach, and supposed we could do so before she sunk. I supposed that we were not more than a mile and a half from the land. She would have had to run within a quarter of a mile of shore before she would have struck. I thought it the safest course I could pursue, to save the passengers and boat.

12th. After the collision, how long did the engine of your boat keep in motion; what stopped it, and how far should you judge the Atlantic run? and explain why it was impossible for her to have run far.

Ans. But a very short time; she made but very few revolutions. My opinion was then, and is now, that she did not run a half a mile after she was struck. The water rushed in on the boilers, and killed her steam. Her boilers were covered with water, I should think, in a minute after the collision—perhaps a little more.

13th. Did you afterwards examine the Ogdensburgh, and what was her condition, and how far back was she marked up and injured?

Ans. I looked at her, and examined her rather hastily. She was scratched up bad on both bows, back eight or ten feet. Her stem was split, and turned aport. Her promenade deck was canted over to port.

14th. From the nature of the wound in the Atlantic, and the condition of the bow of the Ogdensburgh, what opinion did you form as to her speed?

Ans. I then thought, and have so thought ever since, that she was going about as fast as she ever went at the time of the collision.

(Ques. and ans. objected to by Mr. Spalding.)

15th. How were the bells of the Atlantic arranged, as to where they could be rung by the officer of the deck?

Ans. They were arranged so that they could be rung inside or on top of the pilot house.

16th. Where, after the collision, did you first see the second mate, and what orders did you give him?

Ans. I saw him on the larboard side the pilot house, close by, when the propeller had struck us. I ordered him to trim the boat to starboard. He started to go below to see if she was making water; he could not get below.

17th. What time did you leave Buffalo the night of the collision? What is the course you steer, and what was the usual speed of the Atlantic? and describe the character of the night? What hour did you leave the dock, and how was the Atlantic's heading?

Ans. Between nine and ten o'clock. We steer, by our compass, southwest by west a quarter west. The usual speed of the Atlantic with a load was about fourteen miles an hour. I don't think she was running faster than that that night. It was a starlight night, still weather; the lake was smooth; there was no wind of any account. It was clear overhead; it was a very little hazy on the water, but not so much so but that we could see very well. I went to bed between ten and eleven o'clock that night. My description of the night refers to the time of the collision. When I went to bed, the Atlantic was steering on her proper course.

18th. Where did you see Capt. Petty, and what was his condition? Describe fully.

Ans. I first saw him on the upper deck of the Atlantic by the pilot house. He then appeared to be in good condition, and gave orders to have the boat trimmed over to starboard. He, before giving that order, asked me if I had examined the damage to the steamer. I told him that I had, and that the boat would sink. He then asked me how deep the water was there. I told him I would sound and see. I then got down on to the promenade deck and sounded. I cleared away the leadline, and found no bottom at fifteen fathoms. I saw no more of Capt. Petty after that until I picked him up on deck, badly hurt. He had both hands on his head, and said, "My God, my head." I raised him up and asked him what was the matter; he made no further answer than to complain of his head. I leaned him against the cross-piece of the arch. I then left him, and in the confusion I did not see him again until I picked him up in the water. I took him into a life-boat. I hailed somebody, and a boat came to us, and the man in it said he was mate of the propeller. We then took him on board the propeller. I don't know whether I hailed their boat or they hailed me. I said to them Capt. Petty is here, and he is hurt very badly, and I want to get him on board the propeller. We shoved alongside the propeller, and put him on board. I saw him again on the propeller after she had left the wreck, on her way to Erie. He was then in a state-room; there were a number of others there, and they appeared to be rubbing his head with liquor; he asked me for his wife; he also asked me if we were not near the mouth of the river; he seemed to me to act as though he thought he was on board his own boat. He acted strangely. His wife was not on board the Atlantic when she was lost.

19th. How many loads of passengers did you pick up and place on board of the propeller from a small boat?

Ans. I remained in the same boat that came from the propeller, and picked up either three or four loads of people who were in the

water, and put them on board the propeller. We picked up all we could find in the water.

20th. When did you leave the wreck? at that time, how much of her was out of water?

Ans. I left the wreck soon after the collision. The after part of the boat was out of water when I left. The after part of the upper cabin was out of water. There was about one hundred feet of the upper deck out of water, and about thirty or forty feet of her promenade deck.

No. 21. State whether or no, if all the passengers of the Atlantic had ascended on to hurricane and promenade decks, they would have been saved, and if there was not plenty of room for them there. How long did she remain above water?

Ans. They would. There was enough of the boat out of water to have sustained every person on board if they had stayed on it. She was above water when the propeller left the wreck for Erie. I met the steamboat Clinton, and went back to the wreck. When I got there, she was all under water except her masts. The silver ware and pianoforte were taken out after we left the wreck, and before we got back from Erie.

22d. When was the piano and the silver ware taken out of the cabin of the Atlantic?

Ans. I have answered it in my answer to the 21st question.

(Questions propounded to C. C. Blodgett as an expert.)

23d. If you were in command of a steamer, in a still night, going from Buffalo to Detroit, and you should make a white light ½ or ¾ of a point over your larboard bow, what would you do?

Ans. I should keep it open on my port bow, and go along. If the light neared me, I should port, and still keep it on my larboard side. If it was half a point, I should port.

24th. If you were in command of a steamer, in a still night, running from 12 to 14 miles an hour, and if, from the absence of signal lights, or from any other cause, a propeller should approach you within four or six lengths, and from one to three points off your larboard bow, before you discovered she was not a sail-vessel, and if she was running from three (3) to seven miles an hour, and heading across your course, so that if you stop your engine a collision is apparently inevitable, what would you do?

Ans. If my wheel was hard aport, I should keep it there, and go ahead. If it was not, I should put it hard aport, and go ahead.

25th. If you were in command of a steamer with 500 passengers on board, and after a severe collision, with your boat cut clear into the main hatch, and you were satisfied your vessel must sink, and you were only from one to three miles from shoal water, what would you do, stop in deep water, or head your boat for shore?

Ans. Head her for the shore.

26th. Were you acquainted with the S. B. Atlantic, and what in

your opinion are the proper places for the officer of the deck on board of steamers of her class?

Ans. I was on the hurricane deck, promenade deck, in the pilot-house, or on the top of it; often I can see further in the pilot-house than I can at any other place. Such a night as the night of collision, a person could see farther in the pilot-house than from any other place.

27th. During the year 1852, was it customary on the lake for steamers to carry any additional look-out, other than the officer of the deck and wheelsman, and is it now, except upon those vessels that run only in the night-time?

Ans. No, sir.

28th. In a night when you can see a light from two to four miles off, would it be bad seamanship to leave the deck in charge of the second mate, and is it usual and customary so to do?

Ans. I should not call it bad seamanship. It is usually done. It was always done on all the steamers I ever sailed on. When I was second mate I was always entrusted with the watch.

29th. Are there any circumstances in which when you make the red light of an approaching steamer, you would not show your red light in passing, and if so, state them.

Ans. No, sir.

30th. If you were in command of a propeller going from the South Shore to the Welland Canal, and you should make the red light of an approaching steamer from 2 to 2½ points over your starboard bow, what would you do; would you attempt to cross her bows, or would you port your helm, show your red light, and go ahead with confidence?

Ans. I should port my wheel, show my red light, and go ahead.

31st. Suppose yourself in command of a propeller going from the South Shore to the Welland Canal, and you make the red light of a steamer 2 or 2½ points on your starboard bow, and you know her to be a North Shore boat on her way from Buffalo to Detroit, what would you do, attempt to cross her bows, or port your helm, show your red light, and go ahead with confidence?

Ans. I should not attempt to cross her bows, I should port my helm, show my red light, and go ahead with confidence.

32d. If you were in command of a propeller on a still night, and should make a light 2½ points over your starboard bow, supposed to be three miles distant, and such light should not upon observation close in upon you, would it be good seamanship, or in any way necessary to slow your engine, and is such practice usual or not?

Ans. There would be no cause for stopping.

33d. Do sail vessels frequently show two white lights in their rigging or not?

Ans. They generally have two white lights. We frequently see them in the rigging. Vessels may be in such shape in the water that they frequently show two white lights close together.

34th. What distance at least in an ordinary night, should the colored signal lights of a steamer be seen?

Ans. From five to eight miles.

35th. If the colored signal lights of a steamer were not burning so as to be seen one or two miles, would you consider them sufficient?

Ans. No, sir; I should consider them very poor lights.

36th. Did you have on board what you considered a watchman, and if so, what was his duty?

Ans. We had. His duty was to keep a look-out of the lights on the steamboats, and to pay attention, to wait on the officer on deck when he was called on, and to call the watch.

Cross-examined by R. P. Spalding, Esq.

1. Did you repair to the wreck of the Atlantic after the passengers had been taken to Erie. If so, how many days did you spend on and about the wreck, and upon the Canada shore immediately adjacent to the place of the disaster?

Ans. I returned to the wreck on the Clinton. We met her outside of Erie; I was about the wreck a week or ten days. There was no wreck to be on. I was on the Canada shore, and about the wreck.

2 Ques. Did you assist in placing a "buoy" over the Atlantic to denote the place where she sunk?

Ans. I placed a small "buoy" on her. A big "buoy" was placed on her afterwards when I was not there.

3 Ques. What is the distance and bearing of that "buoy" from Long Point light?

Ans. The distance is about two or two and a half miles from the point. I think the bearing was not far from S. S. west, as near as I can judge.

4. Ques. What is the distance and bearing of that "buoy" from the nearest point on the Canada shore.

Ans. It was about two miles distant. The nearest point was N. by W.

5 Ques. While employed in the vicinity of the wreck, did you see a gentleman from Illinois by the name of Milo Smith, who was seeking to rescue from the waves the bodies of his wife and child, or children, who had been passengers on the Atlantic and were lost at the sinking of the vessel, or at some time after the collision?

Ans. Not that I know of.

6 Ques. Did you at some time on the 25th day of August, 1852, or at some time between that day and the evening of the 29th of the same month, hold conversation with this Mr. Smith or any other person, at or near the place of disaster, in respect to the circumstances under which the collision occurred?

Ans. I can't say whether I did or not. I presume that I did. There were a good many people there.

7 Ques. Did you not say in substance to Milo Smith, on Friday

the 27th day of August, 1852, while waiting for the wind to lull so that you might resume your labors in the vicinity of the sunken steamer, that "the collision was the result of damn carelessness, and that if you had been on deck at the time it would not have happened, and that it could have been avoided as well as not, that you supposed Mr. Carney was frightened, and dare not do anything for fear of doing wrong?" Did you use any part of these expressions, or others like them in conversation with Mr. Smith or any one else while in the vicinity of the wreck, either upon the water or on the Canada Shore? Please explain fully.

Ans. Not to my knowledge. It is conversation that I never heard before. I never said anything of the kind either to Mr. Smith, or any body else. Some one once said to me that the propeller run into the Atlantic on purpose; I told him that I did not think so, that it was the result of carelessness, or want of judgment, on the part of the officers of the propeller. I never thought the Atlantic was in fault, and do not think so now. I do not remember when I had that conversation, or with whom.

8 Ques. Did you not say to Mr. Milo Smith in the same conversation that "Carney was afraid if he stopped the Atlantic and a collision happened, they would blame him, and so he did nothing but let her run?"—Please explain what you did say.

Ans. I don't know Mr. Smith. I never had just such conversation with any body; I may have said to some one that Carney told me that the reason he did not stop her was because he knew the propeller would hit him if he stopped, and that he thought he would go ahead, and that he might in that way go clear of her.

9 Ques. Give the names of the captain and mates of the Atlantic, during the running seasons of 1850 and 1851.

Ans. McBride was master of her those two years; Capt. Petty was mate, and I was second mate.

10 Ques. In the summer of 1851, and on the upward trip from Buffalo, who had the watch on deck between one and two o'clock A. M., and before you reached Long Point, Mr. Petty then first mate or yourself?

Ans. I took the first watch out of Buffalo; we generally changed at Long Point. If we left Buffalo late we changed before we got there. If we left early we changed beyond there. We generally changed about one o'clock.

11 Ques. Was not the steamer May Flower running in the same line with the Atlantic in the summer of 1851?

Ans. Yes, sir.

12 Ques. Are you acquainted with Wm. Carnly—was he not the first mate of the May Flower in 1851, and is he not the same sailor who, for his intrepidity on board the May Flower at the time she went ashore in a snow storm, in Nov. or Dec. of that year, has been known and distinguished as the "Iron Man?"

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Ans. I know him; I heard him called the "Iron Man" by a few at the time.

13 Ques. Do you recollect meeting the steamer Golden Gate on her trial trip in May, 1852, as you was coming out of Buffalo in the evening?

Ans. Yes, sir.

14 Ques. Who had the watch on the deck of the Atlantic at the time you thus met the Golden Gate?

Ans. I was on deck myself, and worked the boat.

15 Ques. Who had the watch below Long Point going into Buffalo, the night before the collision?

Ans. It would be the second mate's watch from one o'clock to daylight—his name was James Carney.

16 Ques. Was Wm. Carnly first mate of the May Flower running in the same line of steamers with the Atlantic, during the summer of 1851, and is he not reputed a first-rate sailor?

Ans. Yes, he was the first mate of the May Flower at that time, and I think he was reputed a first rate sailor.

17 Ques. What steamboat do you now command, and is not Captain E. B. Ward one of her principal owners?

Ans. The steamer Ocean, running between Cleveland and Detroit; I believe Captain Ward is one of her principal owners.

18 Ques. Do you intend to be understood by your testimony in chief, that the man, called the watchman, on board the Atlantic, was on the look out for other vessels, or other vessels' lights, at the time of the collision?

Ans. I can merely say that it was his duty when he was on deck to look out for the lights of other vessels, and to see that our own lights were in good order.

Ques. Do you undertake to say that the man filling the post of watchman on board the Atlantic, was charged with any special duty of looking out in the night for approaching vessels, or was his duty to go about your vessel and see that everything was kept safe so far as it regards fires, or the custody of the property on board?

Ans. It was his duty to do both, and he was charged to do both when he was on deck, to look out for lights, and when he saw them to inform the mate; when he was below he could not see them.

Ques. Was it not his duty, when in port, to keep watch all night?

Ans. Yes, sir. He did nothing day times either in port or out of port.

Ques. Did he not sleep any at night when you were running between Buffalo and Detroit?

Ans. No, sir.

Ques. When lying by the dock at night in port, what would he be on the watch for?

Ans. To look out for the boat and thieves; to keep guard of the boat.

Ques. How many such watchmen did you have on board the Atlantic?

Ans. One. There was a waiter on watch in the cabin when the boat was in port or out of it.

Re-examined by Mr. Emmons.

Ques. Do you know E. W. Brigham, who was a passenger on board the Atlantic at the time of the collision, and do you remember the occasion of his giving his testimony at Detroit in this case?

Ans. I did know him, and remember his giving his testimony in this case; he died very soon after he gave his testimony in Detroit.

C. C. BLODGETT.

Deposition of George Dana, taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office, in the City of Cleveland, on the 7th day of October, A. D. 1854.

Dep'n of Geo. Dana.

Questions propounded to George Dana by the attorney for the libellants.

1st. At the time of collision between the Atlantic and Ogdensburgh, in August, what vessel was you on board of; in what capacity, and how long had you been there?

Ans. On board the Atlantic. I was porter, and had been on her three years. The first season I was head waiter, and the next two seasons I was porter. I am 28 years of age. I am now a porter on the Plymouth Rock, and reside in Buffalo.

2d. State what lights she carried, and describe them, and what was your duty in regard to them.

Ans. She carried a large triangular light on her masts—light white and green—and two large globe lamps on her forecastle deck. She was lit all through her, on her decks and in her cabin. My duty was to see that those lights were kept well trimmed, in good order, and that they burned well. Those lights did burn well between twelve and one o'clock, when I got up and examined them, and saw that they were burning brightly.

3d. At what time, on the night of the collision, did you examine the signal lights of the Atlantic, if at all, and how were they burning then?

Ans. It is answered in my answer to the second question.

4th. Where were you at time of collision?

Ans. I was in the barber's shop.

5th. After the collision, state whether the Atlantic was listed over or not, and which way?

Ans. She was listed over to the right.

6th. Where did you first see Capt. Petty after the collision, and did you see him after he went into Buffalo, and if so, what was his condition then?

Ans. I first saw him on the propeller. I saw him in Buffalo the day after the collision, and took care of him one day and a night. I stayed until his wife came. He was then sick, and complained of his head. He kept putting his hands to his head, and saying, "O, God, my head." He had a physician.

7th. Were the lights on board the Atlantic, after the collision, put out in the upper cabin? if so, how were they put out?

Ans. They were put out by the passengers as they were getting furniture and tables, &c., and carrying them through the cabin; they knocked down the lamps, and put out the lights.

Cross-examined by Judge Spalding.

Ques. Where was you at the time of the collision, and how was you employed?

Ans. I was in the barber's shop blacking boots.

Ques. After the collision, did you keep on blacking boots for a while?

Ans. I ran out into the cabin after the collision, and, having one or two more boots to black, I thought I would go back and finish them, as I did not think the boat would sink. I don't know that I finished blacking one boot after the collision.

Ques. Did any of the passengers come to you to get their boots, and if so, did they pay you for blacking them?

Ans. Some came for their boots; one man paid me for blacking his boots.

Ques. How many chandeliers, or lamps, were lighted up in the cabin at the time the two vessels struck together?

Ans. I think there were three burners aft and three forward, all in the cabin. I think we had besides one or two hand lamps forward, and one or two aft, in the cabin.

Ques. After the collision, did you see any person extinguish any of these lights in the cabin?

Ans. I did not see any one. I heard the glass jingle, and suppose that was the way they were put out.

GEORGE DANA.

Deposition of James Carney, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at his office, in the City of Detroit, on the twelfth day of September, A. D. 1854.

Dep'n of Jas. Carney.

1st. What is your age and occupation, and how long have you been a mariner on the lakes?

Ans. Am aged between 36 and 37 years; by occupation a mariner. Have been a mariner on the lakes somewhere near 20 years.

2d. Do you remember collision of Atlantic and Ogdensburgh in August, 1852, in Lake Erie?

Ans. He answers that he does.

3d. In what capacity was you engaged on board of the Atlantic?

Ans. As second mate.

4th. What route was the Atlantic running, and on what days did she leave Buffalo?

Ans. On the North Shore line, leaving Buffalo on Mondays and Thursdays.

No. 5. State the officers and crew of the Atlantic were on board of her at time of collision.

Ans. Capt. Petty was master; Mr. Blodgett 1st mate; myself second mate; three wheelsmen; eight deck hands; cannot tell how many firemen; and two engineers and a greaser. The 1st engineer was Mr. Buel; the second engineer was Alfred Berry; the greaser I think was Fred'k McGee; but don't recollect she had a clerk or steward. Her head porter was Geo. Daley.

6th. State the lights your vessel carried, and their position, on the night of collision; describe the signal lamp; and how were they burning.

Ans. We carried a large signal light, red and green, on the spar before the pilot house, some 10 or 15 feet above the promenade deck. It was a large triangular light, with reflectors on the inside of it. She had two other square lamps, hung over the rail of the promenade deck forward, one on each side; these were white lights; several other lights were on the deck; they were all burning, showing a good light, and the cabins were all lighted up, as the cabin of a first class steamboat usually is.

7th. What time did you leave Buffalo on the night of the collision? What time did your watch commence?

Ans. Cannot tell what time exactly we left Buffalo; our time was usually half past 9 or 10 o'clock at night. My watch commenced that night shortly after we got outside.

8th. What course is the usual one for North Shore steamers from Buffalo to Detroit, and what course did you steer that night?

Ans. The Atlantic's usual course is S. W. by W. Steered S. W. by W. that night.

9th. Who was at the wheel of the Atlantic at time of collision?

Ans. Morris Berry.

10th. What are his qualifications as a seaman and wheelsman?

Ans. I have always found him a good wheelsman; never found a better.

11th. What was the character of that night as to smokiness, wind, and light?

Ans. A very little wind, somewhat smoky on the water, star-light overhead. There was so little wind it was hard to tell which way it was. Does not think a vessel, with that wind, would sail a mile an hour, but cannot say for certain.

12th. What time did you make Long Point light, and how long after you made it before you was abreast of it?

Ans. Cannot tell what time we made Long Point light; thinks it was between half past 1 and 2 o'clock; cannot say for certain. After we made Long Point light, we were 15 or 20 minutes in running up abreast of it; cannot tell for certain.

13th. What alteration did you make in your course as you neared the light house, and for what reason?

Ans. We altered ¼ of a point to the southward. I did not know how near I was to the light, and thought I would give it a wide berth.

14th. How far from light house when you passed were you?

Ans. I would not like to say, but might guess. It might be a mile and a half off, and may be two miles.

15th. When did you resume your course S. W. by W.?

Ans. When I was abreast of the light.

16th. What position on a steamboat does the officer of the deck usually occupy when on duty?

Ans. No one place in particular; on the top of the promenade deck, in the pilot house, on the hurricane deck, and on top of the pilot house; sometimes on the larboard and sometimes on the starboard side of the promenade deck.

17th. Where were you when you made the lights of the Ogdensburgh, and how long had you been there?

Ans. I was standing in the pilot house when I first made the Ogdensburgh's light. Had been standing there a very short time: might have been one minute, or a minute and a half, or two minutes. I had been there but a very short time.

18th. How were the windows in front of the pilot house, and state whether you had an unobstructed view in front and abreast of your vessel?

Ans. The windows were sliding windows, and were down through the cases open. My view was good. I could see all around and forward; could see just as well as if on deck in front of the pilot house, perhaps a little better, as it was higher; could see forward for 4 or 5 points on each side.

19th. Did you see the lights of the Ogdensburgh, on what bow did you make these lights, and what was the character of the lights you made?

Ans. Saw one light at first, then another one; they looked like glimmering stars, and whether stars or lights, I was not able at first to say; saw them on our larboard bow.

20th. When you made these lights how did you take their bearing, and what was their bearing?

Ans. I looked at the lights to see what I could make of them. Made up my mind they were on a sail vessel. Immediately after I saw them, I asked the wheelsman if he saw them. Their bearing was ¾ of a point on our larboard bow.

21st. Immediately on making this light, what observation did you make of your own signal lights, and how were they burning?

Ans. I looked at our own signal lights, and they were burning brightly.

22d. What did you ask Mr. Berry your wheelsman?

Ans. I asked Mr. Berry, the wheelsman, if he saw the light.

23d. From your notice and watch of these lights, and their character, on what class of vessel did you suppose them to be?

Ans. I supposed them to be on a sail vessel.

24th. What order did you then give wheelsman, and was it obeyed?

Ans. I told him to port his wheel; he obeyed it.

25th. Where did you then go?

Ans. I then went out of, and on top of the pilot house.

26th. What did you there see under the approaching lights?

Ans. I saw they were very close to us, and supposed it then to be a steamer.

27th. What order was next given to your wheelsman, and was it obeyed?

Ans. I told him to put his wheel hard aport, and suppose that he obeyed it.

28th. After that order was given, what kind of a vessel did you then make her out to be, and how?

Ans. I made out she was a propeller; I could see by our own lights shining on to her.

29th. At that time where did you have your hand, and why did you not stop your engine?

Ans. I had my hand on the telegraph, to stop her. I thought there must be a collision, and thought our only chance of safety was to let our steamer go ahead, with our wheel aport.

30th. What would have been the result had you stopped your engine when you first made her out to be a propeller?

Ans. We would have run into them.

Ques. 31st. At that time, what was your only chance of escape, and which way did you suppose the other vessel would have her helm?

Ans. Our only chance of escape was to port and go ahead. I supposed that the other vessel would have had her helm aport. Had that been the case, they might not have struck at all, and if they had struck, it would only have been a glancing blow.

32d. Up to this time what lights had you seen on the approaching vessel?

Ans. I saw those two lights at the mast head.

33d. Did you look particularly for other signal lights, and if they had been there and burning, must you have seen them or not?

Ans. I did look particularly, and had there been any lights on the approaching vessel I must have seen them.

34th. Had you seen the colored signal lights on the approaching

vessel, any time before the order hard aport was given, what order would you have given the engineer?

Ans. Had I seen the green light I would have stopped my vessel, because I would have thought she was going to cross my bows.

35th. Just before collision what bell did you hear on the propeller?

Ans. I heard a small bell of some kind. Took it to be an engine bell.

36th. After collision, what order did you give the wheelsman, and why?

Ans. I ordered him to turn the boat to the shore. I knew by the place where she was struck, she must be cut pretty bad, maybe to the water's edge, and I wanted to take her near the shore, into shoal water.

37th. Where did you then go, on to which deck, and describe the appearance of the injury?

Ans. I then came down on to the promenade deck, went down stairs, after I got to the promenade deck, on to the main deck. I saw a pile of lumber or boards smashed up there, and the forward leg of the arch smashed in. I then turned over this pile, and saw the hole right into the main hatch, the size of the bow of the propeller. I returned to get back on deck.

38th. Where did you meet Blodgett, and what did he tell you to do?

Ans. Met Blodgett on the stairs, when I was going forward. He told me to go below and see whether she was making water.

39th. When you went below, how did you find the water coming in?

Ans. I looked down the hatchway into the fire room, and saw the water coming in, in a stream the full size of the opening between the boilers and the side of the boat, driving chips, coal, and wood in a torrent before it.

40th. What orders were given as to listing her down; and how far was she listed down, and on which side?

Ans. The 1st mate gave orders to list her down; should judge she was listed down on her starboard side (the side opposite to the hole), as far down as her guards. We rolled barrels, bags, and sent passengers over to that side.

41st. What effect did it produce, and in what way did she go down?

Ans. It did not have any more effect than only to list her down. The intention was to keep the water out, but the wound was so deep it was of no avail.

42d. How long did the engine keep in motion after collision? What put out the fires?

Ans. Cannot tell exactly how long the engine kept in motion after the collision, nor how many turns her wheel made. It might have been two or three minutes. The water put her fires out.

43d. How far did she run before she stopped?

Ans. She did not run but a short distance. I know she did not make but a few turns before she stopped.

44th. What time did you leave the wreck, and in what condition was the boat when you left?

Ans. Left the wreck somewheres about daybreak. When I left she was clear down, with part of her hurricane deck aft, and a small piece of her promenade deck aft, out of water.

45th. At any time, while the Ogdensburgh's lights were in sight, were they on the starboard bow of your vessel, before the collision?

Ans. No.

46th. Was the propeller to the northward or southward of your course during the whole time?

Ans. To the southward during the whole time.

47th. When you saw the white lights of the propeller how far off did you suppose her to be?

Ans. I made no supposition; could not tell how far off she was; she might have been half a mile off. It might be more, and might be less.

48th. At what speed was the Atlantic running on that night, and what is her usual speed?

Ans. Don't know whether she was running her usual speed, but supposed that she was. She might have been running 10, 12, or 13 miles an hour, but cannot tell. She was heavily loaded that night.

49th. From what you observed of the approach of the propeller, on that night, what was her speed in your opinion?

Ans. That is more than I can tell. She was going rapidly through the water, but at what rate I cannot tell.

50th. If the lights you discovered on the Ogdensburgh had been on a sail vessel, with the wind as light as it was that night, would you have passed her in safety or not, by porting your helm?

Ans. Yes, we would.

51st. Did you, of the Atlantic, assist in picking up passengers, and what did you do?

Ans. I did assist in picking up passengers, and took them aboard of the propeller. After I got off the wreck, I got into the propeller's boat, and went around picking up passengers, with the assistance of Mr. Blodgett. We picked up, I think, two boat loads, and put them on board the propeller. Then Mr. Blodgett left the boat, and went on to the wreck. He told me he had a cousin somewhere, and wanted me to find him. I then went around again, picking up passengers, with the assistance of the 1st engineer and another man. Picked up all we could find, and then went back to the propeller.

52. When you first made Long Point light, from the deck of your boat, how far was you from it, in your opinion?

Ans. Cannot tell how far off; whether it was 2 or 5 or 8 miles off.

53. When you answer so uncertainly, is it because you took no

more notice on that trip than on any other trip, and therefore cannot now tell; can you now tell how far off you made the light on the trip before or after this?

Ans. I cannot tell how far off I made the light on the trip before or after this one. I am very much accustomed to pass that point, and therefore I took no particular notice. I only notice, on passing, to see whether we are on our regular course, and in our regular track.

54th. Did you see Captain Petty after the collision, and what was his appearance?

Ans. I saw Captain Petty after the collision. He seemed to me to be injured, had a handkerchief or shawl tied around his head. I observed him closely enough to see that his appearance was that of a man who had been injured.

Cross-examination by Mr. Spalding.

1 Ques. Of what country are you a native, and how old were you when you come to this country?

Ans. A native of Ireland. I came here when 6 or 7 years old.

2 Ques. How long do you say you have been a sailor?

Ans. For fifteen or twenty years; maybe a year more, or not so much.

3 Ques. How many seasons did you serve on the Atlantic before her loss, and in what capacity each season?

Ans. I had been a part of three seasons on her. The first season (1850) I was on her as wheelsman; the next season (1851) as wheelsman; part of 1851 I acted as second mate.

4 Ques. Did you ever act as regular officer of the deck until the season of 1852?

Ans. I was not shipped as 2d mate previous to season of 1852.

5 Ques. How many times have you given testimony in this case before to day?

Ans. Once in Columbus, and once a deposition in Detroit.

6 Ques. In your deposition given in Detroit in this same case on the 15th Jan'y, 1853, before W. D. Wilkins, commissioner, I wish to know whether you did not testify as follows: "When we made Long Point Light, we altered our course to southwest three-quarters west. I kept her on that course until we got about a mile beyond the light; we then altered our course to southwest by west, our regular course towards Detroit, and were on this course when we first made two dim, white lights, seeming like two little stars, close together, sideways; these were all the lights I could see. The atmosphere was smoky on the water. I looked at it attentively for about a minute, and supposed it to be a light of a craft, but could not tell of what kind; could not see the craft, but only something on the water; could not then tell the direction in which it was going, when I first saw the lights. I could see no figure at all. When I first made the light to be on some craft, I sung out to the man at the wheel that there was a light ahead. When I first made the

light, I looked at the compass in the binnacle, and saw that it was from three-quarters to half of a point on our larboard bow. There was very little wind, if any, that night. At the time I told the wheelsman there was a light ahead, I told him to put his helm aport, which he did. I was then standing in the pilot house, looking out of the window; I then saw that the propeller was coming down upon us, and told the man at the wheel to put his helm 'hard aport;' by this time I discovered the vessel approaching to be a steam vessel. I looked in the binnacle and saw that our course was then about west southwest. I then, seeing the vessel was close on us, and coming hard-on, ran out of the pilot house, and jumped upon top to ring the bell to stop our engine, and saw that our bow had lapped her, and that it would not do to stop her, as I supposed the propeller would have her wheel 'aport,' and we might either have gone clear, or received only a glancing blow. When I had scarcely got my hand on the bell on the pilot house to ring it, the propeller struck us on our forward gangway, with such force as to knock me off the pilot house."

Ans. I testified then the same as I do now, or I meant to.

7 Ques. Had the Atlantic a good head of steam on at the time?

Ans. I did not ask what steam they were carrying; I suppose she was going at her usual rate.

8 Ques. Was her engine eased at all from the time when you made the light until after the collision?

Ans. It was not by my orders.

9 Ques. Was the signal given by you as the officer of the deck to "slow," or "stop," or "back," at any time between the time when you first discovered the lights of the propeller, and the time of the sinking of the Atlantic?

Ans. No, sir.

10 Ques. Did you look at the lights for about a minute before you gave the order to port?

Ans. The time I cannot state. It might have been a minute, or a half minute.

11 Ques. Have you not said that you judged the lights when you first made them belonged to a sail vessel, going towards Buffalo?

Ans. I have said they were on a vessel, but cannot say whether I said she was standing towards Buffalo or not. If I said so I did not mean it; for I could not tell which way she was standing.

12 Ques. Was it before, or after, you ordered the helm hard aport that you saw sparks from the propeller's smoke-pipe?

Ans. Before I ordered it hard aport.

13 Ques. Was you not aware of the fact that the only class of vessels that carried two lights at the cross-trees were lower lake propellers?

Ans. I knew it was a fashion on the lower lake to carry lights at the mast head.

14 Ques. Was not the point where the collision took place in the

neighborhood of Long Point, a place as much frequented by steamboats, propellers, and other vessels, as any other point on the lakes?

Ans. No, I don't think it was frequented quite as much as some other points.

15 Ques. Now tell what other points are more so.

Ans. It may be in the neighborhood of Long Point.

16 Ques. Now can you tell me about how long it was from the time you first saw the propeller's light, until the vessels struck together?

Ans. I could not tell you.

17 Ques. Was the Atlantic steamboat easily handled by means of her engine?

Ans. She was handled very well for a boat of her size.

18 Ques. If you had stopped the Atlantic's engine when you first saw that light which proved to be the light of the propeller, would there have been a collision?

Ans. That is a question I cannot answer you. I cannot tell which way the propeller meant to come, nor which way she would come.

19 Ques. Answer the same question upon the supposition that the propeller held on her course northeast by east?

Ans. That's hard telling. Had I stopped our headway entirely, then there would not have been a collision.

20 Ques. Could you not check the Atlantic's speed, when running 12 to 14 miles an hour, so as to stop her headway within four times her length?

Ans. I do not know, as I never tried it.

21 Ques. In your judgment, which would run the fastest, the propeller going ahead, or the Atlantic running backward, with her engine reversed; each having the ordinary head of steam applied?

Ans. That I could not answer, for I do not know how fast the propeller would run, nor do I know how fast the Atlantic would run, going backwards.

22 Ques. In what manner did you make your escape from the Atlantic, so as to get on board of the propeller, in the first instance?

Ans. I was taken off by Mr. Blodgett in a boat which, I suppose, belonged to the propeller.

23 Ques. When you first made Long Point light, on the night of the collision, did you make it from the deck, or from the shrouds?

Ans. From the mast-head.

24 Ques. Could you at the time you first made it, see the light from the deck?

Ans. No, I had not seen it.

25 Ques. Didn't you go to the mast-head for the very reason that you could not see far enough from the deck?

Ans. I went up there to see if I could see the light.

26 Ques. When at the mast-head, was you not above the haze that was over the water that night?

Ans. I was above it.

Direct Examination resumed.

1 Ques. Have you ever seen any other lower lake vessels besides propellers, carry two lights at the mast-head?

Ans. I have seen steamers on the lower lakes carry them, and have seen vessels from the lower lakes carry a light at the mast-head, but do not know whether I have ever seen them carry two or not.

2 Ques. Before this collision, what propeller had you ever seen carry two lights?

Ans. I cannot tell any particular one.

3 Ques. Did you know it was a propeller that night when you saw two lights?

Ans. I did not.

4 Ques. Have you ever seen any vessels, anywhere, with two lights?

Ans. Yes, I have; with two lights pretty high up in the rigging, with one in the fore-rigging, and one in the top-and-lift, aft in the main-rigging, and if the vessel was a little quartering, I would see both.

5 Ques. Could you tell on that night, whether those lights were at the mast-head, or hanging in the rigging?

Ans. I could not.

6 Ques. And is this the reason why you could not then tell whether it was a propeller or a sail vessel?

Ans. I could not.

Ques. Did the wind lift the haze from the water, soon after you came down from the mast-head?

Ans. No, not as I know of.

Question by Mr. Spalding.

Where did the Atlantic carry her mast?

Ans. In front of the pilot house.

JAMES CARNEY.

Deposition of Morris Berry, taken before Wm. D. Wilkins, United States Commissioner for the District of Michigan, at his office in the City Detroit, on the twelfth day of September, A. D. 1854.

Dep'n of Morris Berry.

1st. What is your age and occupation, how long have you been engaged as a mariner?

Ans. Am aged twenty-four years, my occupation a sailor. Have sailed about six years.

2d. Do you remember collision between Atlantic and Ogdensburgh, August, 1852?

Ans. I do.

3d. Were you on board Atlantic, and in what capacity? What time did you take your watch that night, and what course did you steer?

Ans. I was in the capacity of wheelsman. I took my watch at 12 o'clock, S. W. by west was our course, and I steered that course.

4th. What was the character of the night as to smokiness, wind, and light, and how far off could you see a vessel having a good light?

Ans. The night was smoky on the water, but starlight over head; there was a little breeze, enough to carry a sailing vessel. But I cannot tell much about the breeze, as a steamboat will make a little breeze at any rate. But it was what I should call a still night. Could not tell how far off I could see a vessel having a good bright light, on the water, that night.

5th. How far, in your opinion, did you see Long Point light that night?

Ans. When we first saw it, it was distant six or seven miles.

6th. Who was the officer on watch on your boat, and was he attending to his duty from the time you took the helm until the collision?

Ans. The second mate, Mr. Carney, was on watch. I saw him around on the deck attending to his duty, all the time while I was on duty.

7th. When did you alter the course of your vessel? how much did you alter it? and when did you resume it again?

Ans. When we first made the light, we altered the course of our steamer ¼th of a point to the southward; when we got abreast of the lighthouse, or pretty near, we altered it back again to S. W. by W.

8th. What called your attention to the light of the approaching vessel?

Ans. The second mate asked me if I saw the light; I told him I didn't, and then I just looked, and I told him I did.

9th. Where did it bear when you discovered it, and how was your vessel heading at the time?

Ans. The steamer was on her course S. W. by W., and the light bore from ½ to ¾ths of a point on her larboard bow.

10th. When you saw the light ½ or ¾ of a point over your larboard bow, had the course of your vessel been changed after passing Long Point light?

Ans. No, not after we had passed the light-house.

11th. What order did the mate then give you, and did you obey it?

Ans. He told me to open the light; port a little. I did so, and opened the light about ½ or ¾ths of a point, making it bear about a point and a half on the larboard bow.

12th. How much did you open the light?

Ans. That he has answered as above.

13th. From the character of the light, what kind of a vessel did you suppose it to be?

Ans. I took it to be a sail vessel, because steamboats carry signal lights, and I could not see any.

14th. After giving you the order to port, where did the mate go?

Ans. He went on top of the pilot-house.

15th. What order after remaining there some little time, did he give from the top of the pilot-house, and did you obey?

Ans. He gave the order "hard aport," and I obeyed it.

16th. When did you first discover it was a propeller?

Ans. When our light shone upon her decks.

17th. How soon after order to hard aport did she strike you, and where?

Ans. It was a very short time. She struck us somewhere forward of our forward gangway. The order hard aport was given before I discovered it to be a propeller. My business was to attend to my wheel, and I paid attention to that.

18th. What officer ordered you to steer for land, and did you try to get her around?

Ans. The 2d mate ordered me to steer her for land, and I did so.

19th. How long did you stay at the wheel?

Ans. I stayed until the water got up on to the promenade deck.

20th. Was there any person in the pilot-house just before the collision, and at that time did you know who it was, and did you have any conversation with him?

Ans. There was a person in the pilot-house, but I did not know who he was, and I had no conversation with him.

21st. Did he talk to you while in the pilot-house?

Ans. That he has answered that question as above.

22. Did you see any lights on the propeller but the white lights above mentioned before collision?

Ans. That he did not see any but the white light before the collision.

23d. Did you, or did you not, look carefully at the lights of the approaching vessel, and look for colored lights to see if she was a steamboat?

Ans. I did, and could see no signal lights.

24th. If there had been colored lights on the propeller burning, would you, or would you not have seen them?

Ans. I should think I would, being that close.

25th. Did you see the colored lights on the propeller after collision when she was coming towards the wreck, and how long before she got to the Atlantic?

Ans. I saw the colored lights when she was coming towards the Atlantic after the collision, but cannot tell how far off, nor how long.

26th. Just before the collision what bell, if any, did you hear on the propeller?

Ans. It was a small bell; I supposed, when I heard it, it was an engine bell, but could not tell.

27th. How far above Long Point light did the collision take place, and how far from land?

Ans. Cannot tell how far above Long Point light; should judge 3 or 4 miles, nor am I able to tell how far from land.

28th. How far was she sunk when you left the pilot-house?

Ans. She was all under water but her hurricane deck aft, and a part of her promenade deck in the stern.

29th. How long should you judge it to be, from the time you first saw light of propeller, until the collision?

Ans. It was but a short time, but I cannot tell precisely. It may have been one or two minutes, or perhaps a little more, but that is a mere estimate, as I cannot tell with any accuracy.

30th. At the time the order to hard aport was given, what would have been the effect if your boat's engine had been stopped?

Ans. I don't think that it could have avoided the collision.

Cross-examined by Mr. Spalding.

1 Ques. Did you serve on board of the Atlantic during the season of 1851, and in what capacity?

Ans. Yes; I was a fireman on board of her.

2 Ques. How long before the collision had you been serving as a wheelsman on the Atlantic?

Ans. I cannot tell exactly; a few trips, two or three trips, I guess.

3 Ques. In what capacity did James Carney serve the season before collision?

Ans. As wheelsman, and I guess he was 2d mate a few trips.

4. Ques. At about what o'clock did you first discover the light which turned out to be on the propeller Ogdensburgh?

Ans. I had been on watch some time, but I cannot tell you how long.

5 Ques. Can you tell whether it was between 1 and 2 o'clock, or between 2 and 3?

Ans. I presume it was after two, but cannot tell how long it was.

6 Ques. When your attention was first called to that light by the 2d mate, did you see more than one light?

Ans. I could not see more than one.

7th Ques. At what time, if at all, did you discover two white lights at the mast head?

Ans. I do not recollect seeing but one light at all. I did not pay particular attention to the light at the mast head.

8th Ques. When your attention was first called to that light by the 2d mate, how far was it off according to your best judgment?

Ans. That I could not tell.

9th Ques. Are you quite positive that Mr. Carney was on top of the pilot house when he gave the order to hard aport?

Ans. He must have been on top, for when the mate sings out to the wheelsman, he generally sings out through the scuttle or top of the pilot house, and Carney did so. Don't know whether Carney was quite on top of the pilot house, as I did not leave the wheel to go and look where he stood, but he spoke down through the scuttle.

10th Ques. How fast would the Atlantic run at her best speed in your judgment?

Ans. I never tried her; don't know what her best speed is.

11th Ques. I ask you as a sailor, for your opinion how fast, or about how fast, she would run per hour when at her best speed?

Ans. I couldn't tell; she would run from Detroit to Buffalo, a distance of 250 or 260 miles, in 18 or 20 hours.

12th Ques. Will you give me the points of compass from north to east, so that I may understand the courses.

Ans. N., N. by E., N. N. E., N. E. by N., N. E., N. E. by E., E. N. E., E. by N., E.

13 Ques. Did you see the red and green light of the Ogdensburgh at the instant of collision, or at any time after the collision; and if so, when did you first discover either one of her colored lights?

Ans. I did after the collision, but not before; saw them first when she was coming back to us while we were in a sinking condition.

14 Ques. Did you give your deposition *ex parte* in this cause at Detroit, on the 15th day of January, 1853, before Wm. D. Wilkins, Esq., U. S. Com.?

Ans. I did give it, but do not recollect the date.

15th Ques. Did you, or did you not, in that deposition, testify as follows: "We made a light soon after passing Long Point light, about ½ a point on her larboard bow; it was a little white light, and we supposed it to be the light on a sail vessel. The night was moky and thick on the water, so that we could not see a great way. After we saw the light we put the wheel aport, by order of the 2d mate, so as to open the light; we kept observing the white light on our larboard bow. Just before we were struck we saw sparks from the chimney of the vessel approaching, then knew it to be a propeller, and the 2d mate ordered the helm to be put hard aport. We immediately put the helm hard aport. The 2d mate then jumped up on the pilot house to ring the bell, but before he could ring it the propeller's and Atlantic's bows had lapped. At the time she struck us we were heading about west-southwest. At the time of the collision the Atlantic was still swinging round to the starboard."

Ans. I think I testified then just as I have done to-day.

16 Ques. Did you not testify in that deposition that from the time you first saw the light of the propeller, until the vessels struck together, you thought it was not far from five minutes?

Ans. I might have testified five, or I might have testified ten, but I cannot testify exactly. Don't remember every word of what I testified before, the time might have been 5 or 10 minutes, or more, or less; you can only give a guess at it.

17 Ques. Will you now tell me how far the Atlantic and Ogdensburgh were distant from each other when you first made the light, as near as you can judge, or if you please to call it so, as near as you can guess?

Ans. I could not do that. Don't know how far they were; they

were but a short distance any way. Could not tell you the truth in that way if I should try.

18 Ques. Were they two miles apart?

Ans. Don't know how far they were, cannot tell positively.

19 Ques. Were they a mile and a half apart?

Ans. They may have been ½ a mile or 3 miles, for all I can tell; They might have been ten miles apart, for all that I can state about it; cannot tell about it. They were not ten miles, as you cannot see a vessel much over a mile off on such a night as that.

20 Ques. How far on such a night as that could you see a vessel with such lights as were on board the Ogdensburgh?

Ans. A mile or two.

21 Ques. Was the Atlantic running under a good head of steam at the time of the collision?

Ans. I don't know. I couldn't tell what steam she had. I wasn't engineer.

22 Ques. Did you not testify in the deposition to which I have just alluded, that the Atlantic was running under a good head of steam at the time?

Ans. It might have been so. If it was, it was because I thought so, and not because I knew it; I was at the wheel and could not know it of my own knowledge.

23 Ques. From the time when you first discovered the light of the propeller until the Atlantic sunk; was her engine stopped or reversed?

Ans. It might, but not that I know of.

24 Ques. Was her speed checked in any manner, so far as you know, before the collision?

Ans. Not so far as I know?

25. Ques. If you had stopped and reversed the engine of the Atlantic at the time the order was given to port your helm, would there, in your judgment, have been any collision?

Ans. I might as well say, that if we had stopped in Buffalo there wouldn't have been any. There wouldn't, of course, have been any if we had stopped and backed, but there was no necessity for doing it.

26 Ques. Could you not stop the Atlantic when under good headway (say 15 miles an hour) in four times her length?

Ans. I cannot tell; I don't know nothing about it.

Direct examination resumed.

Ques. Had you acted as wheelsman on any other vessel before you went on the Atlantic?

Ans. Yes, I did, on board of the propeller Paugassett.

Cross-examination resumed.

Ques. Was it not during this same season of 1852, that you were on board of this propeller Paugassett?

Ques. Were you employed and shipped on the Paugassett as wheelsman?

Ans. Yes, I shipped as wheelsman.

Ques. Did you ever ship on board of a steamboat as wheelsman, before the said season of 1852?

Ans. Yes, I did in Kingston. I ran down the St. Lawrence a good while.

Ques. On what vessel, on the St. Lawrence, did you ever ship as wheelsman?

Ans. I forget her name.

Ques. How long was you fireman on board the Atlantic?

Ans. For about three months, in the season of 1851.

Ques. What were the firemen's wages on the Atlantic, and what the wheelsmen's wages?

Ans. They were about the same. Regular wheelsmen, if anything, got the most of the two.

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mark.

Deposition of William Kennedy, taken before Wm. D. Wilkins, United States Commissioner for the District of Michigan, at his office in the City of Detroit, on the twelfth day of September, A. D. 1854.

Dep'n of Wm. Kennedy.

1st. What is your occupation, residence, and age, and how long have you sailed on the Ogdensburgh?

Ans. Am aged about twenty-five years, but cannot say exactly. Reside in Chicago. Am now by occupation a roofer of houses, along with the composition company. Have sailed for seven or eight seasons. Have sailed on the propeller Ogdensburgh for two seasons, and this would be the third season, had I stopped on her till fall.

2d. Do you remember the collision between the Atlantic and Ogdensburgh in August, 1852, in Lake Erie?

Ans. I do.

3d. What vessel was you on, and in what capacity, at that time?

Ans. I was on the propeller Ogdensburgh, as watchman.

4th. What waked you up?

Ans. The two boats striking together.

5th. What part of the vessel did you then go to?

Ans. I went forward by the pilot house, after getting up.

6th. What orders or directions did you hear Capt. Richardson give, as to the signal lamps of the Ogdensburgh?

Ans. When I went forward, I heard the capt. speaking of having the lamps trimmed.

7th. What was the condition of the signal lamps at that time?

and state whether there was any reflection from them on the deck in front of the pilot house?

Ans. I could not see any reflection from the lamps when I went forward, and could not see where she was broken down.

8th. Where did you then go, and when did you again come on the deck in front of the pilot house?

Ans. I went out then, and was fixing about the life boat, and returned forward before we got to the Atlantic.

9th. What was the condition of the signal lamp on the Ogdensburgh at that time, and what was the reflection on the deck of the Ogdensburgh?

Ans. When I went forward the second time, and before we got to the Atlantic, the signal lights burned so brightly, that I could see where she was broken down.

10th. What was the condition of the deck of the Ogdensburgh as shown by the reflection of the signal light, and why did you not see it before?

Ans. The deck was broke down along on the larboard bow. I could not see it when I went forward before, because it was so dark forward that I could see no reflection from the lights.

11th. How did the signal light of the Ogdensburgh usually burn, when lighted at dark and not trimmed until 12 or 1 o'clock, and how far could it be seen in an ordinary night should you think?

Ans. At that time they would not show a bright light after one o'clock without trimming. If not trimmed at 12 or 1 o'clock, on an ordinary night, they could not be seen at more than three lengths of herself distant.

12th. What did you hear McNett, the mate, say after the collision in reference to the sinking of the Atlantic?

Ans. I heard him say, if he was agoing to sink here, it was the best place where the deepest water was.

13th. Was the signal lamp usually trimmed at midnight or thereabout?

Ans. Yes, sir, at about 12 or 1 o'clock they were generally trimmed.

14th. What has McPherson, the 2d mate, told you in reference to keeping watch, &c., while he called the porter to come and trim the lamps?

Ans. He said after the collision, some time, while I was speaking to him, to keep a good look out while he could go and call the porter to trim the lamps. This was not on the same night of the collision, but some time afterwards; and he has spoken to me in this manner frequently; this was while I was wheelsman of the Ogdensburgh.

15th. Did you have a conversation with Louis Young, the 2d engineer, about the circumstances of the collision?

Ans. Yes.

16th. What did he then say about McNett ringing the bells?

Ans. I heard him then say that McNett gave him the wrong bells.

17th. What did he then say about the speed of the Ogdensburgh?

Ans. He said the propeller was running pretty fast at the time the bells were rung, and he understood him to say that, then, the boats were pretty close together.

18th. When were you appointed wheelsman of the Ogdensburgh?

Ans. Not long after the collision, some 5 or 6 weeks after.

Cross-examined by Mr. Spalding.

1 Ques. How many watchmen were on board of the Ogdensburgh at the time of the collision?

Ans. She had one watchman and two wheelsmen.

2 Ques. Is it not the duty of the watchman to look out for fires, and to guard the freight and other property on board against thieves?

Ans. It is according to the rules they have on boats. The watchman on that line of boats has to do duty the same as other deck hands, except in port, when they watched all night, and then got sleep till noon.

3 Ques. On the night of the collision when did you go to bed?

Ans. I went to bed pretty early that night, for I had been broken of my rest, and was pretty tired.

4 Ques. Was you awakened by the shock of the collision?

Ans. Yes, I expect so; as I found myself in the middle of the cabin, the first thing I knew. I recollect feeling the shock of the boats.

5 Ques. Have you heard any of the foregoing questions of libellant's proctor read, and where, and when?

Ans. Yes, some of them, in lawyer Newberry's office, in this place.

6 Ques. How long have you been in Detroit at this time?

Ans. I came here on last Saturday.

7 Ques. Who made application to you in Chicago, to come here?

Ans. Mr. McPherson told me, in Chicago, to come down with him in the Traveller, and to stop here until she should be ready to start.

8 Ques. You say that Lewis Young told you that McNett gave him the bells wrong. Did he tell you how McNett gave him the bells, and in what the wrong consisted?

Ans. I cannot say exactly how he gave him the bells. Young said that McNett gave the wrong bells, and that McNett could not work the bells without making mistakes.

9 Ques. How did he say McNett gave him the bells, just before the collision?

Ans. I cannot exactly say that, as I don't remember exactly.

WM. KENNEDY.

Deposition of Daniel Pomeroy, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at his office, in the City of Detroit, on the 12th September, A. D. 1854.

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Dep'n of Dan'l Pomeroy.

1st. What is your age, residence, and occupation?

Ans. That he is aged fifty-three years; resides at Saniloe, in the District of Michigan; and is by trade a farmer.

2d. Do you remember the collision between the steamboat Atlantic and propeller Ogdensburgh, in Lake Erie, in 1852, in the month of August?

Ans. That he does.

3d. Which vessel was you on board of, and in what capacity. How long have you ever sailed. And do you know the uses of the red and green light; and which side is the red light?

Ans. That he was on board the steamer Atlantic, as a deck passenger. That he has sailed for one season on Lake Ontario, some 3 or 4 or 5 months. The green and red lights are carried to show other vessels and steamers which side to turn on. The red light is carried on the larboard, the green light on the starboard side.

4th. How long, previous to the collision, was you on the promenade deck, forward of pilot house?

Ans. It was ½ past 2 o'clock when I went up on to the promenade deck. I just walked forward of the pilot house, then turned and went down again, and walked in front of the shaft, and then aft.

5th. State whether you looked off on the lake while there, carefully or not, to see if there were any lights in sight, of vessels?

Ans. I looked forward, while on the promenade deck, carefully, to see whether the lights of any vessels were in sight, and saw no lights whatever.

6th. If there had been the lights of any vessels in sight, ahead of you, would you have been likely to see them or not?

Ans. I believe I would.

7th. When you left the deck, forward of the pilot house, where did you go; and where was you at time of collision?

Ans. I went down on to the main deck, and went in front of the shaft, and then I came aft. At the time of the collision, I was about 20 feet aft the shaft, on the main deck.

8th. What orders, immediately after collision, did you hear given as to trimming the boat?

Ans. I ran to the side of the boat, opposite to where she was struck, to help trim the boat, as that was the order given, and a number of barrels were rolled to that side.

9th. Were those orders obeyed, and the Atlantic trimmed over?

Ans. The Atlantic was trimmed over. We did the best we could in trimming her over.

10th. Immediately after the collision on board of the Ogdensburgh, did you have a conversation with McNett, the mate of the propeller?

Ans. I had a conversation with the 1st mate of the propeller, but cannot recall his name. He told me he was the first mate, and acted on the propeller as one of her officers.

To question No. 10, he answers further:

I asked the 1st mate a question. I had a conversation with him.

11th. Did you then and there ask said mate any question; and what was it?

Ans. I asked the first mate how he came to run into us.

12th. What was that conversation?

Ans. The mate replied that he had a right to keep his course. I asked him if he did not see the red light on the Atlantic. He said he did. I asked him how far off. He said two or three miles. He said, that had the Atlantic not turned to the right, he would have passed her bows, and the collision would not have taken place.

On Cross-examination by Mr. R. P. Spalding.

1 Ques. How long since you was spoken to in regard to your being a witness in this case, and by whom?

Ans. Some three months ago. I could not tell the man's name. Recollects now it was Capt. Blodgett, and that he spoke to me on board of the Ocean. We were talking about the collision; and I mentioned to him that I had been on board the Atlantic.

2 Ques. About how long a time elapsed from the time you first went forward of the pilot house, as you have stated above, until the collision took place, as near as you can judge?

Ans. It would be hard to tell, but not over 10 minutes at any rate, if it was that.

3 Ques. How long did you stand in that position, in front of the pilot house?

Ans. Perhaps two or three minutes, not over that.

4 Ques. In what manner was you saved from the wreck?

Ans. I remained on the promenade deck, on the stern of the boat, and was taken off by the propeller.

5th Ques. Was any person present other than yourself when you had this conversation with the mate of the propeller?

Ans. There was a number present; I could not tell their names.

6 Ques. Was the propeller in motion at the time, or lying still?

Ans. She was in motion.

7. Ques. During what year did you sail on Lake Ontario, and in what capacity?

Ans. Some 32 years ago, I was in partnership with a man by the name of Elmer.

8 Ques. Did your vessel carry red and green signal lights?

Ans. No, sir; they were not in use at that time. We carried lights in the night time.

9 Ques. What sort of craft was she—a scow?

Ans. No, sir; a sloop.

10 Ques. What was her name?

Ans. It is so long ago I cannot recollect her name.

DANIEL POMEROY.

Deposition of Ezra W. Brigham, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at the residence of deponent, in the City of Detroit, on the fourteenth day of July, A. D. 1853.

Dep'n of Ezra W. Brigham.

Witness saith: That he resides in the City of Detroit, in the District of Michigan; that he is the same Ezra W. Brigham who was sworn on the trial of this cause below, and then resided at Conneaut, Ohio; that he has been confined to his bed by consumption for about six weeks, and is now unable to rise from his bed; that his occupation is that of a mariner; that he has sailed, at times, in all capacities, upon all the lakes except Lake Superior; that he has been master of a sail vessel, and that he has been on steam vessels as a wheelsman, and that he was mate of the propeller Ogdensburgh at the time of the trial of this cause in the District Court; that he was employed as mate on the propeller Ogdensburgh on the 15th of January, 1853, and left her immediately after the trial; that he was on the Atlantic at the time of the collision as a passenger. The collision occurred on the morning of August 20th, 1852. Left Buffalo between the hours of 9 and 11, and steered by the compass S. W. by W. ¾ W. from Buffalo, that is, I suppose she was steered so. Went below after she got outside. Was in the saloon. Came on the promenade deck about twelve o'clock. Part of the time in the pilot house, part of the time on deck, till the collision. About two o'clock, we were two or three miles above Long Point light house, and about same distance from shore. Saw the light when steamer passed. Were from three-fourths to a mile from it. After passing the point, her course was altered half a point west. His attention was then drawn to two white lights. Immediately after my attention was drawn to the white lights, I heard the second mate order the wheelsman to port. The second mate's name was James Carney. Saw the lights immediately after I heard the order. Carney said to the wheelsman, "Put the wheel aport: there's a light ahead." When I heard the first order given, I looked ahead to see how the lights bore; they were from three-quarters of a point to a point over the larboard bow. I was then in the wheel-house, but went out before the wheel was put aport, and while in the wheel house, I saw the compass. When on deck, I observed the lights a second time, at which time the Atlantic may have begun to answer her helm somewhat. The order was then given by Carney to put the wheel hard aport. Thought it was a sail vessel going to the southward. It was a still smoky night, no wind. Lights about a mile off when first seen, as near as I can judge. Went into the pilot house, and helped to put the wheel hard aport. I then looked out of the door, and saw that the lights were still nearer. When the helm of the Atlantic was put aport, she swung away from, and opened a little the light ahead. Saw no signal lights at all on the propeller up to

time of the collision. Looked for them on the propeller, but did not see them. Had there been good signal lights, he should certainly have seen them. By signal lights I mean red and green lights. In a little time, saw it was a propeller: her hull was within a very short distance then. After we saw that it was a propeller, there was no use then, and no time to back the engine. Heard the engine bell of the propeller when she was within once or twice her length of the steamer. Before witness got out of the pilot house, the propeller's bow struck the Atlantic a little aft of the forward gangway. I went below, to look at the breach. Saw the water coming in fast. The propeller went from the Atlantic's guards and into her hull six or seven feet. Thinks the steamer ran from a half to three-fourths of a mile after the collision. Orders were given to keep her north by west, which would take her to land. If the propeller had ported her wheel when the lights were first seen, I think there would not have been a collision. Had the propeller ported her helm when she was four times her length off, there would have been no collision. Thinks the Ogdensburgh can turn round in the length of a quarter of a mile, and she turns easiest in putting her wheel aport. The lantern which was exhibited to witness, in the trial, was the one which he found in the Ogdensburgh last spring; it was cracked, and the wind affected the light a very little. Capt. Petty ordered her listed over immediately. I helped to list her over. We made an attempt to get passengers over, and moved freight over. We succeeded in listing her over some. The propeller appeared to be running at the time of the collision. Cannot tell whether it was at her usual speed, but she appeared to be running. Knows she was under way, but can't tell how fast she was moving. Thinks the propeller was to the northward of her own course. When I first saw the lights, I think that the Atlantic was considerably to the northward of the propeller. I have heard explained or read the printed testimony given on the trial in the District Court, in which I am made to say that after the order was given to port the wheel, and before I saw the lights of the Ogdensburgh the first time, the Atlantic might have answered her helm a little. I did not so swear; at least I did not so desire to be understood; for such was not the truth; I did not understand the question at the time, if such was my answer. Under the circumstances in which the Atlantic and Ogdensburgh were placed, I might have checked the speed of the Atlantic, but would not have stopped her. After I had seen the hull of the propeller, I would not have checked her, but would have let her run, in hopes that she might run by and avoid the collision.

On Cross-examination.

Did not go to my bed at all on the night of the collision. Had not known much of Carney until the trip before, but had seen him frequently in Buffalo. What first attracted my attention to the Ogdensburgh was hearing the mate say, "Port your helm, there's a

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light ahead." When I heard the mate give the first order, I was in the pilot house near the window when the order was given to port the wheel. I immediately looked ahead and saw the lights of the Ogdensburgh, while still in the pilot house. When I went out on deck I saw two white lights. The orders, "port your helm," and "hard aport," were not both given while I was in the pilot house. I went out between the two orders. The Atlantic's best speed was from 14 to 15 miles an hour. At the time of the collision she was pretty near at her best speed. Did not hear Carney say anything about being behind time at any time during the passage. Had I had charge of the steamer, I would not have checked her speed at the time I first saw the lights. I do not think that, under the circumstances, I would have checked her speed at any time. Saw the colored lights of the propeller some ten or fifteen minutes before she returned to the wreck. They were red and green lights, and two white lights in the cross trees. Did not see the signal lights before the collision. I was in Capt. Ward's employ about half a month after the collision, on the upper lakes as mate of the steamer Detroit. Since I left Chamberlain and Crawford's employ, I have been in nobody's employ, but sick in bed.

E. W. BRIGHAM.

Deposition of Alfred Berry, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at his office in the City of Detroit, on the twenty-first day of October, A. D. 1853.

Dep'n of Alfred Berry.

Witness saith: That he is aged twenty-six years, and by occupation an engineer. Remembers the occasion of the collision between the Atlantic steamer and the propeller Ogdensburg; was on duty on the Atlantic at that time as second engineer; went on duty at twelve o'clock, midnight. When I was going to leave the engine-room, I always made a practice to look at each side of the boat to see whether any light was approaching. I was, on this occasion, about to leave the engine-room for the upper deck to oil the engine. I first went to the starboard side of the main deck and looked out and saw no lights, then I went from the starboard side to the larboard side, and looked ahead, and saw two small lights on the water like two stars; about the time I saw the lights, the fireman came out of the hold and came to the gangway where I was. I told him that I thought the lights were two stars, but about that time, they stirred up the fires on the vessel approaching, and I saw the sparks and told the fireman that I thought it was a propeller. I told him that it was a "lower laker," and that she was coming into us, and with that remark, I left him, and went into the engine-room. Just as I was going into the engine-room, I heard the wheel chain rattle right over my head, on the larboard side, and then the fireman called

to me to stop the engine, for she was coming right into us. He had not more than said these words, when she struck us. The head engineer came to me and asked what was the matter. I told him that it was a propeller that had run into us. He stood by the engine and ordered me down into the hold to open the bilge injection. He asked me first, before he ordered me into the hold, whether we were making any water. I told him I did not know. I heard the deck sweep call to the deck hands to roll the trim-barrels over to the other side. Then I went down into the hold, and I had no more than got down into the cylinder timber, when the head engineer called to me to come up on deck, and hurry. I was pretty close at that time to the bilge injection. I opened it, and then went on deck. By that time the water was up to the grates, about three feet of water being in the hold. When I got up on deck the head engineer ordered me to go forward and see how big the hole was. I undertook to go forward on the main deck, but could not get forward on account of the crowding of the passengers. I went out to the middle gangway, up on the promenade deck, and then went forward. The propeller had struck us a little forward of the forward gangway. She had cut into us, as well as I could judge, about seven feet, as I should think. Our arch was broken in two places, one place at the foot, and the other, at the promenade deck. I then went down and went into my room. I first went down and told the head engineer that there was no prospect of saving the boat, the hole was so big. The head engineer told me that we must do the best we could, and save ourselves. I then went into my room and took my trunk out and carried it on to the upper or hurricane deck; when I left my own room on the main deck, the water was about a foot on that deck. I left my trunk there and went forward on the hurricane deck to the pilot house. After the engineer had told me we must do the best we could, and save ourselves, I went up to the pilot house on the hurricane deck and told my brother, who was there, to stay there till I came to him; and then I went to my room for my trunk, as I have previously stated. I went to my brother in the pilot house, and told him to come out, that there was no use staying there any longer, for the boat was stopped. My brother came out. I stayed there a little while, and then I started on the upper deck to go aft. I met Capt. Petty on the upper deck, with his two hands to his head. He said that he was hurt. He had no more than said these words, when he fainted. I took him, with his head on my lap, and bathed him with water; the water at that time was within reach of my hand, on the upper deck. He revived and got up, and told me to save ourselves the best way we could, and I saw nothing more of him until we got on the propeller. I left him, and went up on top of the arches, on the starboard side, from that I climbed up on the chimney. Then, when I saw that the crowd was getting out pretty well, I came down and stayed on the hurricane deck until the propeller came alongside of us. I was the last one off the hurricane deck,

and cast off the propeller's line. I went on board the propeller and saw Capt. Petty alongside of the foremast of the propeller. He was saying at that time, "Save the passengers." I told him that there was no more on board, and that I was the last one off of the Atlantic's deck. To satisfy him, I returned on board of the Atlantic, went into the door of the upper saloon, aft, as far as I dared go (for it was then pretty much under water), and could not see, nor hear anything. I then returned on the propeller. I remember seeing Long Point light about three miles ahead of us, as we were approaching it. When I speak of the propeller cutting into the Atlantic about seven feet, I mean seven feet on the whole, guards and all, which would be about four feet into the hull. When the sand barrels were trimmed the vessel careened over to the starboard side, opposite to the side where the hole was. I saw the hands engaged in rolling the trim barrels over to the starboard side. I could tell by the motion of the chains that the wheel was put aport, that is, I heard the chains rattle over the larboard side, and I stood close by the chains. This was after I first discovered the lights. I have means of knowing that the course of the vessel had not been changed before that time, as I had not heard a chain rattle before I went to the engine-room. I stood near enough to the chains to know whether they had been moved as they were within six feet of my head. I am always in the habit of watching the chains, and they always made noise enough, when moved, to call my attention. We were running on the north shore. I should think that when I first saw the lights of the other vessel, she was pretty close, and was coming up from the south, right square into us. I cannot say exactly how far off she was. After the collision the Atlantic might have run a mile, and the time was about two or three minutes, before she stopped. From the time I first saw the lights until the collision, a minute or so might have elapsed; it may have been a minute, or may be two. I have no means of judging of the time except by the incidents which happened. When I carried my trunk on the hurricane deck there were passengers there. I saw the first mate on that deck, and a good many passengers rushing up. When I say that her course had not been changed, I mean, that from the sound of the chains I should judge that the helm had not been previously put hard aport, or hard a-starboard. The chains are always moving, more or less, but when the helm is put hard aport or hard a-starboard, I can always tell it from the sound of the chains.

Cross-examined.

I have been examined as a witness before this time, before this commissioner. I have now testified as I then testified, only I was [illegible] examined. I did not then state exactly as I did to-[illegible] have now stated more than I did at the previous examination. I was at the previous examination sworn to tell the truth, the whole truth, and nothing but the truth. On the former exami-

to me to stop the engine, for she was coming right into us. He had not more than said these words, when she struck us. The head engineer came to me and asked what was the matter. I told him that it was a propeller that had run into us. He stood by the engine and ordered me down into the hold to open the bilge injection. He asked me first, before he ordered me into the hold, whether we were making any water. I told him I did not know. I heard the deck sweep call to the deck hands to roll the trim-barrels over to the other side. Then I went down into the hold, and I had no more than got down into the cylinder timber, when the head engineer called to me to come up on deck, and hurry. I was pretty close at that time to the bilge injection. I opened it, and then went on deck. By that time the water was up to the grates, about three feet of water being in the hold. When I got up on deck the head engineer ordered me to go forward and see how big the hole was. I undertook to go forward on the main deck, but could not get forward on account of the crowding of the passengers. I went out to the middle gangway, up on the promenade deck, and then went forward. The propeller had struck us a little forward of the forward gangway. She had cut into us, as well as I could judge, about seven feet, as I should think. Our arch was broken in two places, one place at the foot, and the other, at the promenade deck. I then went down and went into my room. I first went down and told the head engineer that there was no prospect of saving the boat, the hole was so big. The head engineer told me that we must do the best we could, and save ourselves. I then went into my room and took my trunk out and carried it on to the upper or hurricane deck; when I left my own room on the main deck, the water was about a foot on that deck. I left my trunk there and went forward on the hurricane deck to the pilot house. After the engineer had told me we must do the best we could, and save ourselves, I went up to the pilot house on the hurricane deck and told my brother, who was there, to stay there till I came to him; and then I went to my room for my trunk, as I have previously stated. I went to my brother in the pilot house, and told him to come out, that there was no use staying there any longer, for the boat was stopped. My brother came out. I stayed there a little while, and then I started on the upper deck to go aft. I met Capt. Petty on the upper deck, with his two hands to his head. He said that he was hurt. He had no more than said these words, when he fainted. I took him, with his head on my lap, and bathed him with water; the water at that time was within reach of my hand, on the upper deck. He revived and got up, and told me to save ourselves the best way we could, and I saw nothing more of him until we got on the propeller. I left him, and went up on top of the arches, on the starboard side, from that I climbed up on the chimney. Then, when I saw that the crowd was getting out pretty well, I came down and stayed on the hurricane deck until the propeller came alongside of us. I was the last one off the hurricane deck,

and cast off the propeller's line. I went on board the propeller and saw Capt. Petty alongside of the foremast of the propeller. He was saying at that time, "Save the passengers." I told him that there was no more on board, and that I was the last one off of the Atlantic's deck. To satisfy him, I returned on board of the Atlantic, went into the door of the upper saloon, aft, as far as I dared go (for it was then pretty much under water), and could not see, nor hear anything. I then returned on the propeller. I remember seeing Long Point light about three miles ahead of us, as we were approaching it. When I speak of the propeller cutting into the Atlantic about seven feet, I mean seven feet on the whole, guards and all, which would be about four feet into the hull. When the sand barrels were trimmed the vessel careened over to the starboard side, opposite to the side where the hole was. I saw the hands engaged in rolling the trim barrels over to the starboard side. I could tell by the motion of the chains that the wheel was put aport, that is, I heard the chains rattle over the larboard side, and I stood close by the chains. This was after I first discovered the lights. I have means of knowing that the course of the vessel had not been changed before that time, as I had not heard a chain rattle before I went to the engine-room. I stood near enough to the chains to know whether they had been moved as they were within six feet of my head. I am always in the habit of watching the chains, and they always made noise enough, when moved, to call my attention. We were running on the north shore. I should think that when I first saw the lights of the other vessel, she was pretty close, and was coming up from the south, right square into us. I cannot say exactly how far off she was. After the collision the Atlantic might have run a mile, and the time was about two or three minutes, before she stopped. From the time I first saw the lights until the collision, a minute or so might have elapsed; it may have been a minute, or may be two. I have no means of judging of the time except by the incidents which happened. When I carried my trunk on the hurricane deck there were passengers there. I saw the first mate on that deck, and a good many passengers rushing up. When I say that her course had not been changed, I mean, that from the sound of the chains I should judge that the helm had not been previously put hard aport, or hard a-starboard. The chains are always moving, more or less, but when the helm is put hard aport or hard a-starboard, I can always tell it from the sound of the chains.

Cross-examined.

I have been examined as a witness before this time, before this commissioner. I have now testified as I then testified, only I was not then cross-examined. I did not then state exactly as I did to-night. I have now stated more than I did at the previous examination. I was at the previous examination sworn to tell the truth, the whole truth, and nothing but the truth. On the former exami-

nation before the present commissioner, I was produced by Mr. Gardner, who is now present. On that examination I was not questioned quite so much as this time. I stated what I knew pretty near, as well as I could recollect at that time. What I then swore to was true. I was asked to come here at this time and testify, by Solomon Gardner; Mr. Gardner has asked me to come here, and also Capt. Ward. For the purpose of this examination, neither Mr. Gardner, nor Mr. Ward, nor any one, has asked me what I could swear to at this examination. I have talked with Mr. Gardner about this examination. I have talked with him as to what I knew about it. Have also talked about it with strangers whom I cannot remember. Have conversed with these strangers sometimes in the streets, sometimes in houses, talked with these strangers some three weeks, or perhaps two months ago, but cannot exactly remember; cannot tell the time when I was examined by this commissioner before, thinks it was about seven months ago; did not put down the time, and cannot tell exactly; since my previous examination before this comm'r I have talked touching this matter of the collision with Mr. Gardner some three days ago, and with Mr. Emmons to-night, and not before. Have conversed touching this matter of giving my testimony since my previous examination with no one else, other than these two aforenamed persons. I have, with other individuals, had conversations touching the matter of the collision, between my first examination before this commissioner and the present examination. These conversations were with strangers to me, and I cannot name any of them. I have also been examined as a witness at Cleveland; this was about six months, or six months and a half ago. I have had conversations touching this affair with Mr. Chamberlain and one of his head men, Capt. Keating. The four persons above named are all the individuals with whom I have had conversations touching the collision, whom I can name, except one man, and I can't recollect his name just now; what led me to conversations with strangers whom I cannot name, was in talking about the dangers of steamboats. Mr. Gardner first asked me to come here and testify at this examination some three days ago; I have not had any process served on me as a witness. On the former examination before this commissioner, I swore that I saw two small lights. On the former examination aforesaid, I swore that I did not see the hull. I swore that I saw the two small lights and the sparks out of the chimney. On my former examination aforesaid, I swore that I supposed that I saw two lights on the cross-trees. I swore that I saw two globe lights on her cross-trees. On my former examination aforesaid, I swore that the fireman called to me to stop my engine, that a propeller was coming into us. On my former examination aforesaid, I swore that I told the fireman that I could not stop my engine unless I had orders—I forgot to state that in my examination in chief to-night. When the fireman asked me to stop my engine I was just in the engine-room. The fireman, when he

made this request, had just left the middle gangway, was about leaving it and going forward. I have spoken of a communication between myself and the first engineer. The first engineer was "turned in" when the fireman requested me to stop the engine. From the time the fireman made this request, until I met the head engineer, I cannot tell exactly how long it was, but it was a very short time; it was not five minutes. After the request of the fireman as aforesaid, I remained in the engine-room may be a minute or so. After the collision took place I was down in the neighborhood of the fires. From the time I left the engine-room until I left the neighborhood of the fires and lost sight of them was not long; when I lost sight of the fires the waters were just coming into them; they were not entirely out, but the water was coming into them pretty fast. From the place where the fires were to the floor of the boat above her timbers, was about three feet and a half. The bilge injection of which I have spoken, was right opposite the fires, about twelve feet from them toward the stern of the boat, the furnaces facing towards the stem of the boat. When I went below by order of the head engineer, I went down as quick as I could; I had just had time to touch the bilge injection and jump back again, and then the waters were at the fires; I then came back to the first deck. On the former examination before this commissioner, I swore that the head engineer ordered me to go forward and examine the hole made by the collision. On that examination as aforesaid, I swore that under the orders of the head engineer to see how big the hole was I went forward on the promenade deck, and from there looked down into the hole. On my former examination before this commissioner, I swore that the boat probably ran about a mile after the collision. On my former examination aforesaid, I do not remember exactly what I stated about the time the vessel ran after the collision. I have had no copy of the evidence I gave on that examination; I can now state that the Atlantic ran about two or three minutes after the collision. When I first discovered the two lights of which I have testified, I cannot state positively what distance these lights were from us. From the time I first discovered these lights until the collision happened, it is almost impossible for me to fix what time elapsed. I cannot now state exactly at what time of the night this collision took place; it might have been somewhere about twenty minutes after two o'clock A. M.

I do not recollect exactly whether, on my former examination before this commissioner, I stated as to what time it was when the collision took place. On my former examination aforesaid, I said that I saw two small lights approaching me. I did not state that I saw but one light approaching me. When I met Capt. Petty on the upper deck I do not know whether he was hurt or not, otherwise than from what he stated to me. From the time I first met Capt. Petty on the upper deck until I met him on the propeller, I did not hear him give any orders about the boat, other than what I have

before stated that he told me about taking care of myself. I did not hear any orders given by officers of the boat, other than the orders I have mentioned as given me by the head engineer. After I had bathed Capt. Petty's head, and he had revived, I do not know where he went to. I left him standing on the upper deck. I saw nothing further of Captain Petty until I met him on the propeller. I saw the first mate on the upper deck; he was trying to save the passengers, to keep them from being excited, telling them to stay on board. I did not see the first mate doing anything. The next time I saw the first mate was on board the propeller. Don't know how he or Capt. Petty got on board the propeller. From the time I last saw Capt. Petty and the mate on the upper deck until I met them on the propeller, I cannot exactly say how long it was. When I left the Atlantic, the water was on her upper deck as far as the gallows-frame, about amidships; there was about fifteen or twenty feet of the after part of the upper cabin not covered with water when I left. When I first saw Capt. Petty on the propeller, he was laying by the foremast. There were several present when I had the conversation with him, but I don't know who they were. I do not know either the captain or the mate of the propeller. I don't know whether they were among those present, for I don't know them. Did not see the mate the first time I went on the propeller. Saw him the second time I went on the propeller; he was then on the upper deck. When I returned on board of the steamboat, there was about fifteen or twenty feet uncovered by water of her upper cabin floor. Did not see any lights then burning in the cabin, except one light then burning a little in the after end. Does not know exactly whether there were any other lights burning. I could see the water, and things floating round in it. Did not hear any other orders given by any officers on the boat other than those I have mentioned as given by the mate and the engineer. Saw no other of the officers, to recognize them, there was such a crowd about. Saw one boat of the steamer on the larboard side of the steamer; it was not afloat, but they were at work trying to get it off, and my brother wanted me to go in it, but I did not go, as I thought there were enough then about it. There were three boats on the steamer; saw none of the others on service. Did not see the boat of which my brother spoke of afloat; they were trying to get it off when I saw it. My engine-room was distant from the place where I stood, when I first saw the propeller's light, about fifteen feet.

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ALFRED + BERRY.
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1827

Objections to the foregoing deposition, endorsed on the margin of same, as follows, to wit:—

Objection to Deposition.

Mr. Backus for defendants objects to any answer of the witness as to his practice. Evidence taken subject to objection.

Mr. Backus on behalf of defendants objects to the examination of this witness, on the ground that he has been already examined. Evidence taken, subject to objection.

Mr. Backus, for def'ts, objects to anything that Captain Petty said to witness on board the propeller. Answer taken, subject to objection.

Deposition of Luther L. Buell, taken before John C. Grannis, United States Commissioner for the Northern District of Ohio, at his office in the City of Cleveland, on the 12th day of April, A. D. 1855.

Dep'n of Luther L. Buell.

Ques. State your age, residence, and occupation.

Ans. I reside in Detroit, Michigan, am an engineer, and am forty-two years of age.

Ques. How long have you been first engineer on board of steamboats on the western waters?

Ans. About fourteen years.

Ques. Do you remember the time of the collision on Lake Erie between the Atlantic and the propeller Ogdensburgh in August, 1852, near Long Point?

Ans. Yes, sir.

Ques. What boat was you on, and in what capacity?

Ans. On board the Atlantic, in the capacity of first engineer.

Ques. Who was your second engineer?

Ans. Alfred Barry.

Ques. What kind of a second engineer was Alfred Barry?

Ans. I called him as good a one as I ever had.

Ques. Where was you at the time of the collision?

Ans. In my berth.

Ques. What awakened you?

Ans. The collision.

Ques. What did you first do after the collision?

Ans. I went from my room to the engine room as quick as I could put on my pants, and found Alfred Berry there, and asked him what the matter was. He said there was a propeller run into us. I asked Mr. Barry if there had been any bells rung, he said there had not. About that time a fireman came up out of the hold and said she was making water very fast.

Ques. How long did the engine of the Atlantic run, in your opinion, after the time of the collision?

Ans. I should think between two and three minutes.

Ques. Was the steamboat Atlantic listed over immediately after the collision, and if so which way was she listed?

Ans. She was listed when the collision first happened. She was listed over to the larboard, and directly afterwards she was listed over to the starboard.

Ques. What did you suppose caused her to be listed over to the larboard?

Ans. Supposed it was the rushing of the water that caused it at first.

Ques. Did you notice Capt. Petty on board of the Atlantic after the collision?

Ans. I did, on the upper deck.

Ques. Did Capt. Petty, when you noticed him on deck, complain of being injured?

Ans. He did.

Ques. Did you notice him after he got on board of the Ogdensburgh?

Ans. Yes, sir.

Ques. Where did you see him on the Ogdensburgh?

Ans. In one of the rooms.

Ques. What was his appearance then?

Ans. I commenced talking with him, and I thought he appeared a little deranged.

Ques. Did you discover any injuries done to Capt. Petty's person?

Ans. There was some person bathing his head with cold water, and perhaps something else, and I looked and saw a bunch there.

Ques. How long have you sailed with Captain Petty on board of steamers, when Capt. Petty was mate or master?

Ans. I was with him one season when he was mate, and part of another, and as master the season the Atlantic sunk, until she sunk.

Ques. What kind of a mate did you consider Capt. Petty, and what kind of a master?

Ans. I considered him a first-rate mate and captain.

Ques. Do you know Capt. Blodgett, who at the time of the collision was mate of the Atlantic?

Ans. I do.

Ques. How long had you sailed with him as first and second mate?

Ans. A part of two seasons.

Ques. What kind of a first and second mate did he make?

Ans. A good one.

Ques. Was you acquainted with Jas. Carney, who was second mate of the Atlantic at the time of the collision?

Ans. I was.

Ques. How long had you sailed with him as wheelsman and second mate?

Ans. Part of one season as second mate, and I think, part of another season as wheelsman.

Ques. What kind of a wheelsman and second mate did you consider him?

Ans. A good second mate, and as far as I know anything about it, a good wheelsman.

LUTHER L. BUELL.

Deposition of Albon Comstock, taken before John C. Grannis, United States Commissioner for the Northern District of Ohio, at his office, in the City of Cleveland, on the twelfth day of April, A. D. 1855.

Dep'n of A. Comstock.

Witness saith: I am twenty-three years of age. I am a clerk in a lumber yard. I reside in Toledo, Lucas County, Ohio. I remember the collision between the Ogdensburgh and the Atlantic in August, 1852, near Long Point. I was, at the time of the collision, on the propeller Ogdensburgh, and acted in the capacity of wheelsman. I had sailed from the first of June, 1852, as a hand on that boat; that was the first sailing I had ever done. I know DeGrass McNett; he was mate of the propeller Ogdensburgh at the time of the collision. He shipped on board the Ogdensburgh at Ogdensburgh, in the State of New York, the same trip of the collision. He went to Chicago, and on the way back we had the collision. I know Captains Stone and Green, of Oswego, New York. They came on board the propeller Ogdensburgh at Oswego, the same trip that De Grass McNett shipped on board the Ogdensburgh as mate, and came on with us to Cleveland, Ohio. I remember seeing DeGrass McNett endeavor to handle the Ogdensburgh by means of the bells at French Creek, in the St. Lawrence River. He was endeavoring to move her from one wood dock to the other. He moved her more by having the men use the lines than he did by the bells. I remember the day of our leaving Cleveland, previous to the night of the collision. (At this stage of the proceeding, Captain Keating appears, and says that he does not come to cross-examine the witnesses, but says he comes to see fair play, and suggests the propriety of having the testimony taken as heretofore by questions and answers, which is accordingly done.—Jno. C. Grannis, U. S. Com'r.)

Ques. About what time did you leave Cleveland on the day previous to the night of the collision?

Ans. About noon, or very soon after.

Ques. At what time did your watch commence at the wheel, after leaving Cleveland, Ohio, in the afternoon previous to the collision?

Ans. At four o'clock.

Ques. How long did your watch last at the wheel?

Ans. Two hours.

Ques. What course did you steer the propeller during the two hours that you was at the wheel?

Ans. I did not steer all one course. When we were just this side

of Grand River, the captain ordered me to steer her east-northeast. I steered her that way during the rest of the two hours. Until we got at just this side of Grand River, we kept the land down. When I left the wheel, I left her in that course, east-northeast.

Ques. Who took your watch at the wheel when you left?

Ans. William Barnes.

Ques. When did your next watch at the wheel commence?

Ans. At eight o'clock that evening.

Ques. What course did you find the propeller steering when you took your watch at eight o'clock?

Ans. East-northeast.

Ques. How long did your watch last from eight o'clock?

Ans. It lasted four hours.

Ques. During the same four hours, what officer had charge of the decks?

Ans. The second mate, Mr. McPherson.

Ques. During the four hours from eight to twelve o'clock, when McPherson had charge of the decks, what course did you steer the propeller?

Ans. East-northeast.

Ques. Do you remember of seeing Captain Richardson on deck during your four hours' watch.

Ans. I do not.

Ques. When you left your watch, what course did you leave the propeller steering?

Ans. East-northeast.

Ques. Who took the watch at the wheel when you left?

Ans. William Barnes.

Ques. State whether or not William Barnes came into the pilot house about the time you left your watch.

Ans. He did. I do not remember how long he stayed there before he commenced his watch.

Ques. Was any order given by the second mate to change the course of the propeller just at the time you left the wheel?

Ans. I don't remember of hearing any.

Ques. Suppose such an order had been given just at the time you changed your watch, would you have changed her course, or left the order to be executed by Mr. Barnes, who was about to take the wheel?

Ans. I would have left it for Mr. Barnes.

Ques. Why would you leave the order to be executed by Mr. Barnes?

Ans. Because it would take some time to bring her into her course and steady her.

Ques. Where was you at the time of the collision?

Ans. I was in my berth in the wheelsman's room.

Ques. Where did you first go after the collision, and what did you do?

Ans. I came out on deck, and went back into my room to get one of my boots. I went round to the wheel-house to get the other boot, and met Mr. Barnes coming after a light. He took the light forward, and it was passed over the side into the small boat. I was then ordered by the captain to go into the wheel-house.

Ques. What orders were given you by the captain at the time of going to the wheel, or after you got into the wheel-house?

Ans. He said, "Let her come back on to her old course." Before I could get her steady, he gave me another course, and told me to steer for the steamer where I last saw her lights. I could not then see her lights.

Ques. Do you distinctly remember the courses you steered the night previous to the collision from your own memory?

Ans. Yes, sir.

Ques. Have you any other means of knowing the courses you steered than from memory? if so, state what it is.

Ans. From a book in which I usually set down the courses I had to steer.

Ques. Did you set the courses down that you steered that night, on your book during the same night?

Ans. Yes, sir, I did.

Ques. What object had you in taking down the courses that you steered upon the lakes?

Ans. In order to learn the courses. I wanted to learn the different courses through the lakes.

Ques. After the collision, and during the same morning, did Mr. Barnes the wheelsman, come into the wheel house while you was at the wheel?

Ans. Yes, sir.

Ques. Did you have any conversation with him while in the pilot house in regard to the collision?

Ans. I did.

Ques. Please state what that conversation was.

Ans. I asked him how the collision happened, and he said that when he first saw the steamer's light, it was about a point over the starboard bow; that the steamer altered her course to go to the larboard of the propeller; that the propeller's bell rang for her to stop, and he received an order for him to put his wheel starboard, and he did so, and laid his leg over one of the spokes of the wheel; and that when the boats came together, the shock threw him over the wheel and hurt his arm; and he then showed me the bruise; he said that he thought if the propeller's wheel had been put aport, the collision would have been avoided. The same morning he told me not to tell what his opinion was, as he did not want any one else to know it.

Ques. During the trip of the collision, who took the propeller in and out of port, and handled her while in port?

Ans. Capt. Richardson.

Ques. How long was it from the time you left Ogdensburgh, at the time De Grass McNett shipped as mate, to the time of the collision?

Ans. It was on our return on the same trip.

Ques. State if you know how long it took to make a trip from Ogdensburgh to Chicago, and back again to Ogdensburgh?

Ans. About four weeks.

Ques. How long would it take to run from the place of collision to Ogdensburgh?

Ans. About four days.

ALBON COMSTOCK.

Deposition of M. H. Estabrook, taken before John C. Grannis, United States Commissioner for the Northern District of Ohio, at his office in the City of Cleveland, on the 12th day of April, A. D. 1855.

Dep'n of M. H. Estabrook.

Ques. What is your age, residence, and occupation?

Ans. I am a sailor, thirty-five years of age, and reside in Geneva, Wisconsin.

Ques. How long have you sailed as master on board of st'boats and sail vessels on the western lakes?

Ans. About fourteen years, as master of sail vessels, propellers, and steamboats.

Ques. Is it possible for a seaman to tell how far a light is off, in the night, on vessels on Lake Erie?

Ans. If you cannot see the object on which the light is, it is impossible to tell.

Ques. State fully your experience in regard to seeing lights, and judging upon the distance such lights were from you on the lakes?

Ans. I have often seen a light, and taken it to be a long distance from me when it was near me, and taken it to be near me when it was far off. I have repeatedly seen of a sudden, a star just rising, and have taken that for a light, and have altered my course to avoid it, and have afterwards found out that it was a star by watching it closely.

Ques. How does a sailor acquire the necessary education or experience for an officer of a steamboat, practically?

Ans. By serving in the capacity of a wheelsman.

Ques. Is that the best and only place, that a sailor can get such an education or experience while a hand on board steamboats?

Ans. I should think it was.

Ques. Please state fully why it is the best place to get such education or experience?

Ans. A person serving in the capacity of wheelsman, is obliged to obey the orders of the officer having charge of the boat, and by being in that position, acquires a knowledge of the handling of the

boat that he could not in any other capacity; he also stands in a position where he can see other boats, vessels, or propellers, that may be approaching him from opposite directions, affording him a good opportunity of observing the manner in which the master or mate directs, so as to avoid danger.

Ques. Suppose a sailor has only had his experience on board of sail vessels, and has become a competent mate or master on board of such craft, would you consider him competent to take charge as an officer of the decks of propellers or st'boats?

Ans. I should not.

Ques. Do sail vessels frequently show two white lights upon the lake?

Ans. They do.

Ques. Suppose yourself on board of a steamboat on Lake Erie in an ordinary night, such a night as that the colored signal lights may be seen three miles off, you make two dim white lights, supposed to be one or two miles off, and you see no colored lights, what kind of vessel would you suppose those lights on?

Ans. If I saw nothing but two dim white lights, I should suppose them to be on a sail vessel.

Ques. Have you sailed on the western lakes for the last ten or twelve (10 or 12) years continuously?

Ans. I have.

Ques. When did you first learn that the lower lake propellers carried two white lights on their cross-trees?

Ans. I never knew it was a uniform custom. The first I heard of it was at the trial of this cause at Columbus. I have years ago seen one or two white lights at the mast-head. I never knew that it was a custom, and never heard of its being a custom, until it was sworn to at Columbus.

M. H. ESTABROOK.

Deposition of J. G. Hinde, taken before Jas. C. Grannis, United States Commissioner for the Northern District of Ohio, at his office in the City of Cleveland, 13th day of April, A. D. 1855.

Dep'n of J. G. Hinde.

Ques. State your age, residence, and occupation.

Ans. I am forty-five years of age; reside at Sandusky, Ohio. I am a sailor.

Ques. How long have you been a mariner?

Ans. I commenced sailing for a living in 1827, and have not lost any time by sickness or otherwise since that time.

Ques. What waters have you sailed upon?

Ans. The Atlantic and Pacific Oceans, the China Seas, the Mediterranean Ocean, the Grecian Seas, the Black Sea, the North Sea, and on Lake Erie, Lake Huron, and Lake Michigan, and on the North River.

Ques. What vessels have you sailed upon on salt water as an officer?

Ans. On the ship John Searjeant as second mate; the bark Mary Frazier, as second mate, and on the frigate Potomac. The two first were merchant vessels, the last was in the government service. I was quartermaster on the Potomac.

Ques. What were the duties of second mate on those two merchant vessels?

Ans. To keep the larboard watch, and to assist in having the duties of the vessels performed.

Ques. What were your duties on the Potomac?

Ans. To see that the vessel was properly steered; or, in other words, to cure the vessel.

Ques. What steamers have you sailed upon on Lake Erie, and in what capacity?

Ans. On the United States as second mate; on the Fulton as second mate; on the Cleveland as second mate; on the Clinton as mate; on the Scott as master; on the Bunker Hill as master; on the propeller Oneida as master; on the prop. Sciota as master; on the prop. Iowa as master.

Ques. Do you remember the time of the collision between the steamboat Atlantic and the propeller Ogdensburgh in August, 1852, on Lake Erie, near Long Point?

Ans. I do.

Ques. Do you know James Carney, who was second mate on the Atlantic, at the time of the collision?

Ans. I do.

Ques. How long have you known him as a seaman?

Ans. Seven years or thereabouts.

Ques. Has he ever sailed with you?

Ans. He has.

Ques. On what boats, and in what capacity?

Ans. He was on the Scott with me, two seasons, while I sailed the Scott, as wheelsman. I don't remember whether he was with me on the Bunker Hill.

Ques. What kind of a seaman was he while he sailed with you? State fully.

Ans. He was honest, industrious, and a good wheelsman; and I gave him charge of the deck when there was no second mate on deck.

Ques. Did you consider him competent at the time he sailed with you to take charge of the decks as second mate or not?

Ans. I did.

Ques. Do you know Captain Petty, who was master of the Atlantic at the time of the collision?

Ans. I do.

Ques. Did you know his reputation as a seaman previous to the collision?

Ans. I did.

Ques. What was his reputation as a seaman previous to the collision?

Ans. It was good.

Ques. What was his reputation while he was mate and master?

Ans. It was good.

Ques. Did you know Mr. Blodgett, who was mate of the Atlantic at the time of the collision?

Ans. I did.

Ques. Did you know his reputation as a mate previous to the collision?

Ans. I did.

Ques. What was his reputation as mate previous to the collision?

Ans. It was good.

Ques. How does a sailor acquire the necessary education or experience for an officer of a steamboat, practically?

Ans. By being at the wheel.

Ques. Where is the only and best place for a man to get such education or experience as a hand on board of a steamboat?

Ans. At the wheel.

Ques. Please state fully why it is the best place at the wheel to get such education or experience.

Ans. For various reasons: He stands in a place where he can see all approaching vessels and objects; because he hears and has to understand and execute all orders of the master or mates and to change the position of the boats; because he sees what the master and mates do to avoid accidents or danger, and for many other reasons.

Ques. Suppose there are two men, the one has only had his experience as a seaman on board of sail vessels, he thus becoming a mate or master of such craft; the other has been a number of years before the mast, and two or three years as wheelsman on board of steamboats and propellers, and has become a competent wheelsman on board of steamboats, which of the two men would you rather entrust to take charge of the decks of a steamboat?

Ans. The man who has been wheelsman on steamboats and propellers.

Ques. Suppose a man has only had his experience as a seaman on board of sail vessels, and has become a competent mate or master of such sail vessels, would you consider him competent to take charge of the decks of a steamboat or propeller?

Ans. I would not, right off.

Ques. When you left sailing upon sail vessels and went on board of steamboats, what course did you pursue to acquire the necessary education and experience to become an officer of such steamboats? Please state fully.

Ans. I went on board the States to learn. I acted as second mate, but without pay. I might have got enough to pay my wash bill. They had on board of the said United States a first and second

mate. I did not feel disposed to take a lower place, but I occupied that position for the purpose of learning. I occupied that position perhaps four or five months, I am not very certain.

Ques. Were you acquainted with the steamboat Atlantic?

Ans. Yes, sir.

Ques. What in your opinion are the proper places for the officer of the deck on board of steamers of her class?

Ans. On the promenade deck, the hurricane deck, and in and on the pilot-house.

Ques. If you were in command of a steamer in a still night, running from twelve to fourteen miles an hour, and if from the absence of signal lights, or from any other cause, a propeller should approach you within four or six lengths, and from one to three points off your larboard bow before you discovered she was not a sail vessel, and if she was running from three to seven miles an hour and heading across your bows, so that if you stopped your engine a collision was apparently inevitable, what could you do?

Ans. I would put my helm aport and let her slide.

Ques. State whether or not sail vessels frequently show two white lights in the distance on the lakes.

Ans. They do; usually those lights are carried one forward of the cap or the bow-sprit under the jib-boom, and the other on the fall-post.

Ques. Suppose those lights upon a vessel should be seen from an approaching steamer in the distance, would they have at times the appearance of being some distance above the decks or not?

Ans. They would.

Ques. Suppose you are on board of a steamboat in an ordinary night, such that a colored signal light could be seen two or three miles off, you make two dim white lights in the distance and no colored lights, supposed to be about two miles off, what kind of a vessel should you suppose those lights to be on, a steamboat or a vessel?

Ans. On a vessel.

Ques. Is it possible for a seaman to tell how far off a light is in the distance in the night-time on vessels on Lake Erie?

Ans. It is not for me.

Ques. State fully your experience in regard to seeing lights, and judging upon the distance such lights are from you on the lakes.

Ans. I cannot tell their correct distance; sometimes the lights look far off when they are close aboard, and sometimes they look close aboard when they are far off. I have often taken a star for a light, and a light for a star.

Ques. About how long have you sailed on the lakes as second mate on board of steamers?

Ans. Three or four years.

Ques. During the time you was thus second mate, did your captain stand watch with you in ordinary weather?

Ans. He did not.

Ques. In the year 1852, or since then, has it been customary on the lakes in a night when a light may be seen two or three miles off, the weather calm, for the masters of steamers to stand watch with their second mate?

Ans. As far as my experience runs, it has not been customary.

Ques. Have you ever offered James Carney, who was second mate of the Atlantic at the time of the collision, second mate's berth under you on board of a steamer on Lake Erie previous to the time of said collision?

Ans. Yes, sir.

Ques. What year did you offer him second mate's berth with you?

Ans. The same year. In the spring of 1852.

J. G. HINDE.

Deposition of D. H. McBride, taken before John C. Grannis, United States Commissioner for the Northern District of Ohio, at his office in the City of Cleveland, on the 13th day of April, A. D. 1855.

Deposition of D. H. McBride.

Ques. What is your age, residence, and occupation?

Ans. I am thirty-six; I reside at Erie, Pa., and am a mariner.

Ques. How long have you sailed on Lake Erie, and in what capacity?

Ans. I have sailed between Buffalo and Chicago, and on Lake Erie twenty seasons. Before the mast three seasons on sail vessels; as wheelsman, one season on steamboats; and as second mate on steamboats, three seasons or thereabouts; and on steamboats as first mate, two seasons and a half; as master of sail vessels, two seasons; as master of steamboats nine seasons.

Ques. What steamers have you been master of?

Ans. The Missouri, James Madison, the Champion, Canada, Atlantic, Ocean, and Queen of the West. I am master of the Queen of the West now.

Ques. Do you remember the time of the collision between the Atlantic and the Ogdensburgh on Lake Erie in August, 1852, near Long Point?

Ans. Yes, sir.

Ques. Do you know Capt. Petty who was master of the Atlantic at the time of the collision between her and the Ogdensburgh?

Ans. Yes, sir.

Ques. How long have you known him as an officer of a steamboat?

Ans. Since 1848.

Ques. Has he ever sailed as an officer under you?

Ans. Yes, sir. In 1848, I was sailing master of the New Orleans, and he was mate.

Ques. How long has he sailed with you on steamboats, and in what capacity, and in what boats?

Ans. In 1850, I was master of the Atlantic, and he was with me as first officer. I also sailed her in 1851, as master, and he was with me during that season as first officer.

Ques. What kind of a mate did he make while with you?

Ans. He was a good mate, and very capable. I think he was as good a mate as I ever had with me.

Ques. What was his reputation as master on board of the Atlantic up to the time she was lost?

Ans. I never heard anything against it.

Ques. Do you know Capt. Blodgett who was mate of the Atlantic at the time of the collision?

Ans. Yes, sir.

Ques. How long have you known him as the officer of a steamboat?

Ans. Since 1848.

Ques. Has he sailed with you, if so, on what boat, and in what capacity?

Ans. He has. First as wheelsman on the New Orleans, and then as second mate on the Atlantic, in 1850 and 1851.

Ques. What kind of a wheelsman and second mate did he make while with you?

Ans. Good wheelsman, and good second mate.

Ques. What was his reputation as mate on board of the Atlantic the season she was lost?

Ans. I never heard anything against it.

Ques. Do you know James Carney, who was second mate of the Atlantic at the time of her collision with the Ogdensburgh?

Ans. Yes, sir.

Ques. How long have you known him as a mariner?

Ans. I knew him fifteen years ago as a steamboatman deck hand. I did not know much about him from that time until he came with me, in 1850, as wheelsman on board of the Atlantic. He was wheelsman on the Atlantic during the seasons of 1850 and 1851.

Ques. Have you known him as a sailor on sail vessels?

Ans. I have heard he was a sailor on sail vessels.

Ques. What kind of a wheelsman did he make while he was with you?

Ans. He was a very good wheelsman.

Ques. Did you consider him, the last season he was wheelsman with you, competent to fill the place of second mate on board steamboats.

Ans. I did, and the fall of that year recommended him to Captain Petty as a competent man for second mate.

Ques. How does a sailor acquire the necessary education and experience to be an officer on a steamboat practically?

Ans. The first proper place is as wheelsman.

Ques. State whether or not that is the best and only place that

he can get the proper education to be an officer while a hand on board.

Ans. I should consider it the best place and the only place.

Ques. Please state why it is the best and only place to get such experience, at the wheel on board of steamboats?

Ans. You are in the presence of the officer who works the boat, and hear his orders; you are in sight of approaching vessels or steamers, and hear the captain's orders, and you see how he works the bells of the boat.

Ques. Does he stand in a position where he can see and know what the officer of the deck does to avoid all approaching dangers?

Ans. Yes, sir.

Ques. Is it possible for a seaman to tell how far a light is off, in the night, on vessels on Lake Erie, unless he sees the craft on which the lights are?

Ans. I don't think you can judge accurately.

Ques. Please state fully your experience in regard to seeing lights, and in judging how far such lights are from you on the lakes.

Ans. I have been deceived in lights, thinking they were near when they were far off, and far off when they were near; you can judge sometimes pretty closely, and sometimes you cannot; I think I have mistaken a star for a light.

Ques. Do sail vessels frequently show two white lights on the lakes?

Ans. They do sometimes.

Ques. Suppose you are on Lake Erie, on board of a steamboat, in an ordinary night: you see two dim white lights, supposed to be a mile or two in the distance, such a night as the colored signal lights should be seen three miles off, and you see no colored lights, what kind of a craft would you judge the white lights to be on?

Ans. If they were low down, I would take her to be a vessel.

Ques. If you are in command of a steamer in a still night, running from twelve to fourteen miles an hour, and if, from the absence of signal lights, or from any other cause, a propeller should approach you within four or six lengths, and from one to three points off your larboard bow, before you discovered she was not a sail vessel, and if she was running from three to seven miles an hour, and heading across your bows, so that if you stop your engine, a collision is apparently inevitable, what would you do?

Ans. I believe I would put my wheel aport, and if I thought there was a possibility of clearing her, keep on, thinking she would port her wheel.

Ques. Were you acquainted with the steamboat Atlantic, and what, in your opinion, are the proper places for the officer of the deck on board of steamers of her class?

Ans. I was acquainted with her; the proper places were on top of the pilot house, alongside of the pilot house, or in the pilot house; with your head out forward, you can see the lights ahead or broad

off either beam. We could work the Atlantic's engine inside of the pilot house.

Ques. At what time did you first learn that the lower lake propellers carried two white lights at their mast heads?

Ans. I think I first heard of it at Columbus, on the trial of this case. I think I first saw one last summer.

D. H. McBRIDE.

Deposition of John Robertson, taken before John C. Grannis, United States Commissioner for the Northern District of Ohio, at his office in the City of Cleveland, on the 13th day of April, A. D. 1855.

Dep'n of Jno. Robertson.

Ques. What is your name, occupation, and residence?

Ans. I am twenty-seven years of age; am a mariner. I reside in Newport, in the State of Michigan.

Ques. How long have you sailed on the lakes?

Ans. Thirteen years.

Ques. How long have you been master of steamers on the lakes?

Ans. Three years previous to this year.

Ques. Do you know James Carney, who was mate of the Atlantic at the time of the collision with the Ogdensburgh on Lake Erie, near Long Point?

Ans. Yes, sir.

Ques. Has he ever sailed in the capacity of second mate under you on board of a steamer?

Ans. He has. He was with me a month and four or five days, year before last, as second mate. He was with me last year, as first mate, about eight months.

Ques. What kind of a mate did he make?

Ans. He made a very good mate.

Ques. What kind of a second mate did he make?

Ans. He made a good one.

JOHN ROBERTSON.

Exception to Depositions.

Exception to the depositions of Luther L. Buell, Albon Comstock, M. H. Eastabrook, J. G. Hinde, D. H. McBride and John Robertson, for the reason that the respondents were not allowed the privilege of a cross-examination.

April 26, 1855.

R. P. SPALDING, *Proctor.*

Deposition of Noah Rose taken before William D. Wilkins, United States Commissioner for the District of Michigan, at his office, in the City of Detroit, on the 16th day of July, A. D. 1853.

Dep'n of Noah Rose.

Witness saith: That he is aged twenty-nine years, and by occupation a mariner. Have been engaged as a sailor ever since he has been big enough to go on the water, some twenty or twenty-two seasons in all. Have served on board of the steamboats called "Comadasoda," the "Benjamin F. Loder," the "Richard Stevens," the "Napoleon," the "Oliver Ellsworth." Have served on them partly as wheelsman, and partly as fireman. My home is in Ontario County, State of New York. Was in Mr. Ward's employ on the steamboat Detroit last fall. Has not been on any vessel this season. Was on board of the steamer Atlantic when the collision happened between her and the propeller Ogdensburgh, in August 1852, in the capacity of fireman. I first came on board the Atlantic at Buffalo, the night the collision happened. I commenced my duties, as fireman, about an hour or two after we had left Buffalo harbor—not far from two o'clock in the morning of the collision. I came from the fireroom, went to the forward larboard gangway on the main deck to get a little fresh air, as is usual for firemen so to do when heated; I looked out and saw two white lights on the water off on the larboard gangway; I should think, two or three points to the larboard; did not go to the compass to look, but such was my estimate. I could not have seen those lights from the larboard gangway, had those lights been upon the starboard. From my position on the gangway and the position of the lights, I have no doubt but that the lights on the vessel were to the south of the Atlantic, and further from the Canada shore than the Atlantic was. There were two or three persons, who were strangers to me, standing around the gangway. I did not know them as I was a stranger on the vessel, having shipped that night. I have since learned the name of one of the men who stood with me then. I have had a conversation since then on steamer Traveller with him, and learned that his name was "Billy." I just stepped out of the fireroom for a few moments, saw the light and returned to the fireroom immediately after seeing the light. I had just stirred up the fire, and had not got the poker out of my hand before the crash of the boats coming together occurred. I immediately took up my poker to stir up the fire as soon as I got into the fireroom, and had the poker in my hand when the crash took place. I would not take more than a minute to stir up the fire, as no man likes to stand before a hot arch any longer than he can help. When the crash took place I came on deck and found the Atlantic heeled over on the starboard side. She was kept listed down on that side and not allowed to right herself, as long as I stayed aboard of her. I walked forward near the bows, then went aft nearly to the shaft. I saw the wound made in the Atlantic's side; it was a very large wound; I looked down and saw the fireroom full of water. The vessel was then sinking rapidly. I went on her starboard side; after I had got hold of a stool, with a tin life-preserver nailed under it,

I jumped overboard with it, and went to the Canada shore. The distance from the boat to the Canada shore was from three and a half to four miles. When I went overboard, the boat was so much more listed down on the starboard than on the larboard side, that I chose the former side on going overboard. The starboard guards were very much lower than the larboard guards; the bows were nearly under water on the starboard guard when I went overboard.

On cross-examination.

Was born in Ontario County, New York, at Geneva. Was between seven and nine years of age when I first went on the canal. Had served on the old steamer New York on Lake Erie before I went on the Atlantic; had, also, served on the steamer Buffalo on Lake Erie, as fireman; had not served on any other steamboats on Lake Erie, than those above mentioned; was shipped on the Atlantic at Buffalo by the engineer, as I supposed. Knew none of the hands or officers of the boat, except the engineer. Had no conversation with any of the officers of the boat, except the engineer; asked him if he wanted a fireman; he said that he did, and I went aboard. I looked right off when I came upon the main deck to get some fresh air, and saw the lights of the propeller; couldn't tell how far off those lights were from us; they were probably a mile or a mile and a half, perhaps, not quite so far; saw nothing but white lights, no red, blue or green lights. When I first came up out of the firehold I did not go to the starboard side of the Atlantic; might have seen those lights from the starboard side, could not say, as I was not on that side. Nothing was said about the lights among those standing at the gangway, when I went up for fresh air, while I remained there. After the collision I did not go aft any further than the shaft; saw the wound of the Atlantic from her main deck. Since the collision I have been in New York State until October, then went into Ward's employ on the steamers Detroit and Traveller, until navigation closed in 1852. Spent the winter of '52 in Royal Oak, Oakland Co., Mich. Am now waiting here to get a berth, and have the promise of one from Mr. Ward. Have had to let two chances of getting employment go on account of being kept here by this examination. Mr. Sam. Ward asked me, about six weeks ago, what I knew of this matter of the collision, and I told him.

Direct Examination resumed.

When I said in my cross-examination that I might have seen those lights from the starboard side, could not say, as I was not on that side, I mean, only, that I did not wish to swear positively to what I did not actually know; but I do not think, in my own mind, from the position of the vessel, that I could possibly have seen them from the starboard gangway, on account of her being so many points to the larboard.

NOAH C. ROSE.

Deposition of George R. Givan, taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the seventh day of October, A. D. 1854.

Dep'n of Geo. R. Givan.

1st. What is your age, residence, and occupation? At the time of the collision of the Atlantic and Ogdensburgh in August, 1852, what vessel was you on board of, and in what capacity?

Ans. I am now thirty-seven years of age, reside in Detroit; I am a clerk. At the time of the collision between the Atlantic and Ogdensburgh, I was acting clerk of the Atlantic. I took the place of the regular clerk from Detroit to Buffalo, and was returning when the collision happened.

2d. What awakened you, and what time was it?

Ans. The concussion of the boats, at about half past two o'clock.

3d. Where did you go and what was the kind of night? and state whether you saw Long Point light or not.

Ans. I got up out of my berth or bed and went forward. I did not see Long Point light then, I saw it afterwards from the wreck.

4th. How long after the collision did the Atlantic keep in motion?

Ans. That is a pretty hard question to answer. I think she did not run more than a minute and a half.

5th. After the collision, state whether the Atlantic was listed over or not, and which way, and was she headed towards the Canada shore.

Ans. She was listed over to the starboard, and opposite from the blow she received. She was headed towards the Canada shore.

6th. When did you leave the Atlantic? and state whether if the passengers had all gone on to the upper deck of the Atlantic, whether they would have been saved or not, and how long did she remain out of water?

Ans. I left the Atlantic at about sunrise the morning of the collision. It was between daylight and sunrise. I was about the last person who left the Atlantic. The most of her deck was out of water two hours. The stern hurricane deck was out of water when we left. I think the passengers could have been saved if they had gone upon the deck and stayed there.

7th. Did you see Captain Petty after the collision? What did he do, and what was his appearance?

Ans. I saw him on board the propeller; he had the appearance of a man bewildered and not in his proper senses. He appeared to be injured. He had a contusion on his head. I examined and applied brandy to the wound, and also camphor. The brandy I got from the cook of the propeller, and the camphor from some of the passengers. I was with Captain Petty from the wreck to Erie; all the time at Erie; from Erie to Buffalo, and left him at about six o'clock at Buffalo. On my arrival at Buffalo we stopped at the Western Hotel, and I sent for a physician for Captain Petty, and

left him in the physician's charge. Captain Petty did not order the physician; I sent for him. During all the time I was with him, he acted like a man who was severely injured—hurt.

8th. Did he complain of his head being hurt.

Ans. He did.

Cross-examined by R. P. Spalding, Esq.

Ques. In whose employ was you at the time you went on board the Atlantic as a temporary clerk, and in whose employ are you now?

Ans. I was then, and am now a clerk for Capt. Wards in their counting-house in Detroit.

Ques. How many passengers of all classes were there on board of the Atlantic at the time she left Buffalo the night of the collision?

Ans. Between four hundred and thirty and forty. I think the exact figures are four hundred and thirty-six, but I am not certain.

Ques. Of this number how many were saved?

Ans. My figuring makes about three hundred or three hundred and ten saved.

Ques. What was the condition of those that were saved, with respect to their clothing? Were they destitute or otherwise?

Ans. A great number were saved with their clothing on; a part were saved with nothing but their night clothing, and a part were very destitute.

Ques. How long did you and Captain Petty remain at Erie?

Ans. We left Erie at twelve and a half o'clock, or about that, on the Buffalo cars for Buffalo. We reached Erie probably at about nine o'clock; perhaps ten.

Ques. What physician in Buffalo did you get for Capt. Petty? Will you give me his name?

Ans. I don't know his name. I told Mr. McComber, the book-keeper of Mr. Osborne, who then kept the Western Hotel in Buffalo, to send for the family physician, and he did so, and the physician came. I saw him there.

Ques. How many times did this Buffalo physician call to see Capt. Petty?

Ans. I don't know, sir. I left that evening for Detroit.

Ques. When did you next see Capt. Petty?

Ans. I don't think I saw him until the following December. He was then running the steamer Ocean for Capt. Ward.

Ques. How long did he continue in Captain Ward's employ after the collision?

Ans. I don't know of any settlement being made with him until after the Ocean laid up that fall, which was the 15th of December of that year, I believe.

Ques. Has Capt. Petty sailed for Capt. Ward in any of his steamboats or other vessels, since the 20th of December, 1852?

(Objected to by Capt. Gardner.)

Ans. Not to my knowledge. Capt. Ward has four or five steamers on Lake Michigan that I know nothing about.

Ques. Where does Capt. Petty live?

Ans. He lives in Conneaut, Ashtabula County, Ohio.

Ques. Was he apparently in good health the last time you saw him?

Ans. I should think he was. I did not see him more than two minutes.

Ques. At what hour of the day or night do you recollect having seen Captain Petty immediately previous to the collision?

Ans. About nine o'clock, I suppose. I saw him a very few minutes before we left Buffalo, and we left a little after nine o'clock. I did not see him after we left. I was in my office most of the time. I did not go out of it until after 11 o'clock. I then took a turn through the cabin and went back and went to bed.

Ques. Was not Captain Petty apparently in perfect health, and in the full possession of his intellect when you saw him at nine o'clock?

Ans. He was.

Ques. Do you recollect having a conversation on board the propeller with one of the Atlantic's passengers, whom you may since have known as David S. Walbridge, of Kalamazoo, Michigan?

Ans. No, sir, I had conversation with him or board the propeller. I know him by sight.

Ques. Do you know Solomon Gardner, of Detroit, and if so, state whether he is acting as the agent of Capt. Ward, in preparing this suit for trial, and how long have you known him to be in Capt. Ward's employ?

Ans. I do know him. I believe he is acting as the agent of Capt. Ward in preparing this suit. He has been so employed from fifteen to eighteen months, I should think.

Ques. From what part of the steamboat Atlantic did you make the light at Long Point?

Ans. From the stem or forward part of her.

Ques. Was this before or after the steamboat had stopped running?

Ans. It was after she had stopped.

Ques. Was it before or after she had begun to pitch her bows under?

Ans. It was after she had commenced sinking forward.

Ques. On what deck did you stand?

Ans. I was on the pilot house, perhaps, holding on to some of the running rigging.

Ques. Was her main deck under water at that time?

Ans. I think it was.

Ques. Where away did you make Long Point light in reference to the stem of the steamer, that is, how did the light bear, over her bows, over her midships, or over her quarters?

Ans. If I was looking right ahead I could not see Long Point

light. I am no sailor, and no nothing about bearings. I should think over the starboard side, about off the pilot house; as near as I understand it, it was off on the right hand abreast the pilot house.

GEO. R. GIVAN.

Deposition of Elon L. Chipman, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at his office in the City of Detroit, on the 1st day of October, A. D. 1853.

Dep'n of E. L. Chipman.

Witness saith: That he is fifty-five years of age; and is by occupation a mechanic; has been a farmer; resides in Owasso, Sheawasse County, Michigan; remembers the occasion of the collision between the steamer Atlantic and propeller Ogdensburgh, when the Atlantic was sunk; was then a passenger on the Atlantic; immediately before the collision took place I was standing on the deck forward of the wheel-house, where the man at the helm stands; I saw two lights, thought they were lights on a vessel of some sort; they were off on the left hand; they appeared to be dim lights; should think they were in a southerly direction from our vessel, as we were running south or southwest, as I suppose. After I had seen these lights I heard some one, in or near the wheel-house, cry out "aport." Pretty soon after the cry of "hard aport" was given. It might have been three or four minutes from the time I saw the lights until I heard the first order, but had no means of judging. It might have been a minute between the two orders, or it might have been half a minute, it was pretty soon. Could not tell what kind of a vessel it was that the lights were on when the first order was given, but concluded it was a steamer of some kind. I ran through the saloon, aft, to find a friend, pretty soon after the order "hard aport" was given. Should think I had got about half way down the cabin when the collision took place. The collision occurred pretty soon after I started. Found my friend where I supposed he was; left my friend asleep; we had been conversing together, and he was sleepy, I suppose, or at any rate, he had that appearance. I should think he was, when I left, left sitting on a chair. The chair was on the very hind part of the boat, just within the upper cabin.

He was standing up when I came to him, and had begun to converse respecting the shock. He ran, immediately after we had finished our conversation, right round on the outside of this saloon. There was an outcry forward, that the boat was sinking. While we were talking we heard this outcry, and he started after the outcry. I climbed up immediately on to the hurricane deck as soon as I could. Should think the boat had run a minute or two after I had got up on the hurricane deck, but I was excited, and had no means of judging time. She did not run long, I'm sure of that. It was not over a minute, maybe not so long, from the shock, until we heard

the outcry, and my friend left me. When I got on the hurricane deck the boat seemed to be careened over to the right hand. After the bow had went down she seemed to right herself, but, for some time, she was careened down to the right hand. She began to careen over about the time my friend left me. It occurred to me, when I was climbing up, that it would be more safe for me to be up on that side, which was the uppermost than on the side which was careened down. Should think that the boat which ran into us had her ordinary headway on; was taken off by the propeller Ogdensburgh. Saw her bows next morning. Should think that both bows were injured about equally, when this vessel got close to us. I saw no other lights at all, only the two which I have mentioned.

On cross-examination.

Did not reside in Sheawasse Co. at time of collision; came from Rochester, and was on my way from New York to Michigan when on board of Atlantic, to see the country. Had been in Michigan before. My family was in Rochester at time of collision. Has not examined any of the testimony in this case. Has had conversations with Mr. Emmons and Mr. Gardner about this matter. They inquired of me whether I was on the boat, and respecting the collision. The first time I had conversation with them, or either of them, was two or three days ago. Had conversation first with Mr. Gardner, on Thursday last. Mr. Gardner was introduced to me, don't recollect where, nor by whom, it was either on the boat or on the wharf. Gardner asked me if I was on the Atlantic when collision took place, told him I was. He did not say he was interested in any manner in it, and does not know now that he is. Has not heard him say he was concerned for persons who had an interest in it. Am detained here about this business of the collision. Thursday night last I stayed on the Ocean, at direction of Mr. Blodgett, mate of Ocean, last night at Johnson's Hotel. Mr. Gardner asked me to stop here, and told me that I should not be at any expense while I stayed. When I discovered the lights I was on the left hand side of the boat, in advance of the wheel-house. Should think the vessel on which the lights were was a steam vessel, it had that appearance. Don't know anything about measuring distances on the water; it is mere guess-work, but should think that the vessel was a mile or a mile and a half off when I first saw her lights. From the time I first saw these lights until I heard the order "aport," it might have been a minute and a half or two minutes, but that's mere guess-work. From the time of the order "aport" until the order "hard aport" it might have been half a minute, maybe not so long, should think it was pretty soon after the first order. From the time of the order "hard aport" until I went to look for my friend, it could not have been over half a minute. From the time I started to look for my friend until the collision took place, was a very few seconds, for I went as quick as I could go. My friend's name was Thomas

Myers, residing in the town of Ogden, Monroe Co., N. Y.; he then resided there, and does still. From the time of the collision, until I heard the outcry that the boat was sinking, it might have been three or four minutes. In going from where I stood, at the time I heard the order hard aport, I went through the upper saloon. I met no one on my way through. I saw one man laying down on a lounge, he was a getting up. From the time I met my friend, until I started to climb on the upper deck, it might have been a minute or half a minute. Met my friend at the left hand door, at the after part of the saloon. Passed round about twenty feet to the left from the rudder-post, before I began to climb. Passed the other door on my way round. Cannot know, of my own knowledge, where the Atlantic was struck. Am sure she was struck forward of the wheel-house, for while I was running the noise of the collision was behind me. From the time I first felt the collision, until I ceased to hear the machinery (I should judge by what took place in fixing the time), it might have run three or four minutes, maybe five minutes. Saw nothing of the captain of the boat, nor any of the officers, to designate them. There was but one man on the boat whom I knew, and that was my friend Mr. Myers. At or near the collision I noticed a man in the wheel-house at the wheel; noticed no one else doing anything about the boat. When I speak of "wheel-house" I mean "pilot house," where the helmsman stands. Noticed no one managing or taking control of the boat after that time, until I went on the propeller. As I looked forward I saw them letting the boat down. Heard them several times cry out "Mr. Blodgett," and heard some one say "Help roll this boat over." And heard them talk about lowering the boat. And heard a great deal of screaming and "hollering." From the time I heard the cry that the boat was sinking, I saw no one that I recognized as managing the boat, there was so much confusion I could not tell. They all seemed to be commanders. The orders aport and hard aport came from the neighborhood of the pilot house, but can't tell whether they came from the man in the pilot house, or from some one else. The machinery was not stopped by any order as I know of. It wasn't stopped till the water put the fire out. There was no letting off of steam. Don't know whether the boat approaching was under full head of steam, it had that appearance. Thought that all the time I looked at it, it was on its ordinary move, moving on its ordinary course. Knows that it was at the latter part of the night this collision happened. Should think it was two or three o'clock A. M. The propeller came up alongside the stern of the Atlantic, and took me off from the wreck of the Atlantic. From the time I got on the hurricane deck till the bow went under water, it might have been ten or fifteen minutes. Should think the steerage cabin was full of water in five minutes. It might have been half an hour before it got up to the pilot house, where the wheelsman stood. After I climbed up I did not go forward. Did not go to the bow of the boat after I started back after my friend.

ELON L. CHIPMAN.

Deposition of De Grass McNett, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at his office in the City of Detroit, on the fifth day of September, A. D. 1854.

Depo'n of De G. McNett.

1st. When at Erie immediately after the collision, on the dock near the propeller Ogdensburgh, and in the presence of McPherson, McGrain, Barnes, G. W. Bone, O'Brien, some or all of them, and others, did you with chalk, or with any other material or implement, draw lines representing what you alleged to be the respective courses of the Atlantic and Ogdensburgh, for purpose of illustrating to the by-standers the mode in which the collision occurred between said vessels? Do you know McGrain, McPherson, and Barnes?

Ans. That he did not. He is acquainted with McGrain, McPherson, and Barnes.

2d. And at the same time and place, did you then draw one line representing you vessel coming from towards the South Shore of Lake Erie toward the Welland Canal, and another representing the Atlantic's course from Buffalo to Detroit, and did those lines cross each other at or near Long Point, where you alleged the collision to have occurred?

Ans. No.

3d. And at the same time and place, did you locate the propeller Ogdensburgh going down on a part of the line south of the course of the Atlantic, and southerly from the point of intersection, and the Atlantic easterly of that point on her course, and did you state or represent that you expected to have time to cross the Atlantic's bows before she got up to the point of intersection of the courses, and that you would have done so if she had not ported her helm, or to that effect, or in substance?

Ans. No.

4th. And at same time, and place, and occasion, did you state that you saw the red signal light of the Atlantic three, or 5, or 8, or 10 minutes before collision, or any time, and if so, what time?

Ans. That he said nothing at all about the red light at that time and place.

5th. And at same time, place, and occasion, did you state that you saw the red light of the Atlantic when she was 2, or 3, or 4 miles off, and knew it to be a steamer?

Ans. That he did not.

6th. And at same time and place, did you not also state, that when two or 3 times the length of your vessel off, you rung the bell to back, and that the headway of the propeller was so great, that it did not have time to effect it much before the collision?

Ans. He did not.

7th. Immediately after the collision on board of the Ogdensburgh, was you not asked by Daniel Pomeroy, how you came to run into

the Atlantic, and if you did not see her before the collision, and did you not admit to him in that conversation that you saw her white and red light 2 or 3 miles off?

Ans. That he did not. That he does not know such a man as Dan'l Pomeroy.

8th. And at same time and place, was you not asked by said Pomeroy, why you did not port, or turn to the right and pass by, and did you not reply that you did not consider it your duty to alter the course of your vessel; that if the Atlantic had not altered her course you would have passed her bows before she got to the place of intersection of their courses, and the Atlantic would have passed under the propeller's stern, or to that effect?

Ans. No.

9th. Just after the collision, and on the Ogdensburgh, when McPherson, H. Wells, and others, or some of them were present, did not Captain Richardson ask you what lights you saw on the Atlantic; did not you reply that you saw her red light; did he not then ask you, why the devil you did not port, and you replied that you thought it your duty to keep your course; or did not a conversation to this effect or substance take place?

Ans. No.

10th. And at same time and place, was you not asked by some other person if you saw the Atlantic's red light, and you replied you did; was not you then asked why you did not port, and you replied that you thought it your duty to keep your course, or to that effect?

Ans. Not that I recollect of.

11th. When on the dock at Erie on the morning after collision, when asked by Geo. Berryman, why you did not stop you boat, did you not reply that you thought you could pass ahead of the Atlantic until she came within a short distance, and that then you did ring the stopping bell, but that you struck together before you could have much time to break the headway, or to that effect?

Ans. No.

12th. Did you not on the morning after the collision, on the deck of the Ogdensburgh at Erie, and in the presence of Miles Coughey and several of the crew of the Ogdensburgh, draw a diagram or lines similar to those mentioned in question number 2, and did you not then explain the cause of the collision in substance and effect as mentioned in questions numbers 2 and 3?

Ans. No.

13th. And at the same time and place, when the said Miles Coughey asked you, if you saw the said steamboat in time to avoid a collision, why you did not port, did you reply that you thought you had ample time to cross her bows before she got along, or to that effect?

Ans. No.

14th. Did you at same time and place, in explaining the causes of collision, say that the Atlantic ran so much faster than the Ogdens-

burgh, that you was very much disappointed, and that she got along much sooner than you expected, or words to that effect?

Ans. No.

15th. Did you leave Erie sooner than you otherwise would have done, to avoid a criminal arrest, or were you threatened with a criminal arrest while there?

Ans. Not that I know of.

16th. After leaving Erie on the Ogdensburgh, and on your passage to the Welland Canal, did you have a conversation with or in the presence of Mr. Ring and wife, and others, in relation to the testimony you gave before the Coroner's Jury at Erie, and in that conversation did you not admit, or state that you testified before the Coroner's Jury that you saw or made the red light of the Atlantic 2 or 3 miles off, and that you said if you had ported your wheel there would been no collision, or to that effect?

Ans. No.

17th. At the same time and place, did Mr. Ring then remark to you that you had committed yourself, and ask you how you expected to get out of it, and did you not reply, that you knew you had; and did you not express in some way your dissatisfaction at having made such statements, or to that effect?

Ans. No.

18th. When on the Ogdensburgh on the afternoon after leaving Cleveland, on the day before the collision, did you not have a conversation with Mr. Ring, and others being near, in which you said among other things: That Ward's line wanted to run one line of propellers off the lake, and did you not say that you would sink every damned boat of Ward's before he should run your boats off, or words to that effect?

Ans. No, nothing of the kind.

19th. On Sunday after the collision, and when the Ogdensburgh was lying in the Welland Canal, did you not state to McPherson, your second mate, in a conversation, that you saw the red light of the Atlantic 10 or 15 minutes before the collision?

Ans. No.

20th. When sworn before the Coroner's Jury at Erie, the morning after collision, did you not state that you was on your course from the South Shore of the Lake to the Welland Canal, and the Atlantic was on her course from Buffalo to Detroit, and that when you were south of the course of the Atlantic, and when you was some 2 or 3, or 4 miles off, you saw the red light of the Atlantic, that you knew her to be a steamboat by the lights, and that you supposed you could cross her bows ahead of her, or cross her bows before she got to the point of intersection, and that if the Atlantic had not ported her wheel or altered her course, you would have done so, or words to that effect?

Ans. No.

21st. Or did you at same time and place make any portion of such statement, in substance or effect; and if so, what portion?

Ans. I might have said that we were on our course, but as to telling her course, I did not, and as to the rest of the alleged conversation, I did not.

22d. Did you at same time and place explain, or was there an explanation made by any one else, in your presence, before the jury of the uses of the red and green lights?

Ans. Not to my knowledge.

23d. Were you asked at same time and place by one of the jurors if you had ported or turned to the right, a few minutes before the collision, if the terrible calamity would have happened, and did you not reply that it would have been prevented, or to that effect?

Ans. No, not to my knowledge. If anything was said about it, I made this explanation, that it would have made no difference, because the Atlantic was steering at us.

24th. Were you not asked at same time and place, why you did not do so, and you replied, I thought it was the business of the Atlantic to keep out of my way, or words to that effect?

Ans. No.

25th. Did you not at same time and place, state that you rung the bell to stop, but that owing to the headway of your boat not much effect was produced before the accident, or to that effect?

Ans. He did not.

26th. When examined at Cleveland, on the 25th of January, 1853, in this case, before Richard C. Parsons, a commissioner, did you not say on your cross-examination, "That you knew by the light it was a steamer when you first saw the light of the Atlantic, and that you knew she was going up the Lake, or to that effect?"

Ans. I said I thought she was a steamer when I first saw the light, and that perhaps she was going up the Lake.

27th. Did you not say during that examination, that you saw the red light of the steamer before you got up and looked at the compass, and some 8 or 10 minutes before collision, or words to that effect?

Ans. That he did not.

28th. Did you not at the same place and same day, when said examination was taken, have a conversation with the Hon. Edward Wade, and the Hon. Dan'l R. Tilden, in which you admitted you saw the red light of the steamer when you first discovered her, and in answer to their assertion, that it was your duty then, under the rules of navigation, to port your wheel, and go to the right, did you not contend, that you had a right to keep your course, and also say that you expected to pass in front of her across her bows before she came up, or words to that effect, or did you make any part of said statement; and if so, what part?

Ans. That he did not; that he had no conversation with them to that effect.

29th. And at same time and place was not lines drawn and books or other objects lain down on the floor or elsewhere, representing the courses of the vessels Atlantic and Ogdensburgh, showing the Ogdensburgh before the collision southerly of the course of the Atlantic; and did you not there admit that to be the true position of the vessels before the collision occurred. And did you not hold an argument with Mr. Tilden, contending that, although you saw the red light of the Atlantic in that position, it was your duty to hold your course?

Ans. No, not to my knowledge; I know I did not.

30th. And on same cross-examination were the following questions put to you; and did you make the answers following said questions, respectively, or any part of them, and which part?

"Cross-ques. No. 1. State how soon after you discovered the light of the Atlantic, you came to the conclusion she was a steamer.

"Ans. About two or three minutes.

"No. 2. What distance was you from the steamer when you ascertained that she was a steamer?

"Ans. I could not say exactly, should judge she was two and a half or three miles.

"Cross-ques. No. 11. Did you ascertain at the time you spoke of two or three minutes after you saw the light of the steamer, whether she was passing up or down the Lake?

"Ans. I made up my mind she was going up the Lake.

"Cross-ques. No. 12. When you saw the steamer's signal lamp, was it the green or red light?

"Ans. A red light.

"Cross-ques. No. 13. Will you state what was your duty as a seaman, after discovering the red signal light of the Atlantic to do; to bear away to larboard or starboard?

"Ans. It was to keep my course, and not turn to the larboard or starboard. My duty was to keep my course under the circumstances.

"Cross-ques. No. 14. Did you know from that signal light what tack she was, on starboard or larboard?

"Ans. Steamboats have no tack.

"Cross-ques. No. 15. When you saw her red signal light, what did it indicate to you as to the course of the Atlantic?

"Ans. It indicated to me that she was coming right on to us or nearly that.

"Cross-ques. No. 16. State whether it indicated to you that the steamer was steering S. W. by south?

"Ans. It did not.

"Cross-ques. No. 17. What did it indicate as to the course of the vessel?

"Ans. I cannot tell.

Questions on re-examination.

"Ques. No. 4. At the time you ordered the engine of the propel-

ler to be slowed, how far off should you judge the steamer was, she running at the rate of 16 miles per hour?

"Ans. I should think she was from one half to a mile off, I should think about a mile.

Re-cross-examined by Pl'ffs' Counsel.

"No. 1. Will you state what light a steamer must show on her arboard side, whether green or red.

"Ans. A red light. That is the way we carry our light.

"No. 2. Will you state then how it was that you concluded this steamer was running on your starboard side, when you saw her larboard light?

"Ans. Because she was off on our starboard side.

"No. 3. How happens it then that you did not see her green light?

"Ans. I did see her green light when she got close to us. The reason why I saw her red light was because she was heading right at us. You cannot see a green light at a great distance."

Ans. That the questions and answers are truly set forth as contained in the deposition.

31st. On the same time, place, and occasion, on your direct examination, did you not swear as follows, in answer to question No. 3?

"We left Cleveland soon after noon, between 12 & 1 o'clock on the 19th of August last; kept along close the land down to Grand River; steered from Grand River down abreast of Ashtabula (perhaps below Ashtabula) east-northeast; this course had been steered, my second mate told me, when I came on deck to commence my watch at 12 o'clock at night. I kept her along on the same course east-northeast until 2 o'clock, then hauled her off N. E. by E., that is, steered off the land from the south shore. Soon after that, I cannot say exactly how long, I saw a light two points, or two and a half points on our starboard bow, and still kept our course." And if not, what did you say in reply to said question?

Ans. That he did so state, except that he does not now remember that he had any conversation with the 2d mate in relation to the courses which had been run by him on his watch.

32d. Will you please state how fast your propeller run, and following the course E. N. E., where that rate would bring her at the time you took your watch at 12 o'clock said night, if you ran within 5 or 6 miles of Fair Port or Grand River; also where you would be when you hauled her off N. E. by E. at 2 o'clock. Please speak in relation to the true courses.

Ans. At twelve o'clock at night we would be down between Conneaut and Erie. My propeller run between 7 and 8 miles per hour. We should be at that time, 12 o'clock at night, between 12 and 15 miles off the south shore; when I hauled her off E. N. E. at about 2 o'clock at night, we would be not quite so far out from Erie

Peninsula. If we ran within 5 or 6 miles of Fair Port, that would take us closer to the south shore.

33d. Did you not swear at Columbus on the trial of this cause in the District Court, that from time you took the watch until immediately before collision, you kept the propeller on her course N. E. by E.?

Ans. Yes, he did.

34th. Soon after taking your watch, did you not order your wheelsman, Mr. Barnes, to change the course of your vessel one point to the northward?

Ans. I asked Mr. Barnes how she was heading; he told me that she was heading east-northeast, and I told him to keep her northeast by east.

(34 A.)

To interrogatory No. 34 A, which is as follows:—

Did you not swear at Columbus, at the same time and place, that you found the vessel running northeast by east, and so kept her during the whole period of your watch, to the time of the collision?

He makes answer and says: I said at Columbus, that at nearly two o'clock I came on deck, and asked the wheelsman how he was heading; he answered, east-northeast, I told him to keep her northeast by east. I did not swear as stated in the interrogatory 34 A, but I swore as above stated in this answer, and not otherwise.

(34 B.)

To interrogatory No. 34 B, which is as follows:—

At the same time and place, did you swear that the course of the propeller was northeast by east, from off Ashtabula to the time of the collision, that she ran no other course; explaining during said examination, that all you knew about the course before your watch, was what you learned from the second mate.

He makes answer and says: I do not recollect swearing so.

(34 C.)

To interrogatory No. 34 C, which is as follows:—

Are you willing to swear you did not so testify?

He makes answer and says: I am not willing to swear positively.

(34 D.)

To interrogatory No. 34 D, which is as follows:—

How was the fact? Did your vessel, during your watch, steer any other course than northeast by east?

He makes answer and saith: I suppose she did; I asked the wheelsman how she headed, he told me east-northeast. I did not look at the compass.

(34 E.)

To interrogatory No. 34 E, which is as follows:—

Did you swear at Columbus, that when you came to take your watch, the mate informed you that the vessel had been running northeast by east, or that it had been running east-northeast, or that he told you she had been running either of those courses, and which of them?

He makes answer and saith: I think that I did not state that he told me either.

35th. On the former trial of this cause at Columbus, did you not swear that the signal light of the Ogdensburgh was on top of the pilot house, and swear the same when your deposition was taken at Cleveland?

Ans. That he did not.

36th. Did you not say in Cleveland in presence of William Barnes, McGrain, and others, about the time when your testimony was taken at Cleveland, that the reason why you did not port was, that you expected to have time to cross the Atlantic's bows, and that you would have done so if she had not ported her wheel, or to that effect?

Ans. No.

37th. And at same time and place did you not further say that the reason you did not port was, that when you saw the red light of the Atlantic, you thought you had time to cross the bows of the Atlantic, or to that effect?

Ans. No.

38th. At the time and occasion heretofore referred to, when your deposition was taken at Cleveland, did you not then swear as follows, or to that effect: About two o'clock I saw a light some five or six minutes, and then told the wheelsman to slow; then saw the red signal light of the steamer, and made up my mind that she was coming exactly on to us or nearly so, told the man at the wheel to keep her on her course, got up and looked at the compass; after running slow 8 or 10 minutes gave the signal to stop, and immediately to back, and then the steamer struck us, or words to that effect and purport?

Ans. That he did not so testify.

(38 A.)

To interrogatory No. 38 A, which is as follows:—

Did you state in substance as is set forth in interrogatory No. 38, with this exception: that you told the wheelsman to ring the bell to "slow," or that you rung the bell to "slow" yourself, or any part of it, and what part?

He makes answer and saith: I testified that I stated that I rung the bell to "slow" myself, and I did not say that we run five or six minutes after seeing the light before I rung the bell to "slow;" I said that we run three minutes, and I did not testify that I saw the

red light until after I got up on to the wheel house; I think that I testified that we ran "slow" five or six minutes, and then gave the signal to stop.

39th. Did you not make some part of said statement, and if so, what part?

Ans. That I have already answered it as fully as I can.

40th. On the night of the collision, and subsequent to the same, on the Ogdensburgh, did you not state to or in the presence of Kennedy, the watchman of your boat, that you saw the red light of the Atlantic 10 or 15 minutes before the collision?

Ans. No.

41. How many times have you been examined at Cleveland?

Ans. Never but once.

42. When examined at Cleveland, did you state that you, when you first discovered the light, asked the man at the wheel if he saw it?

Ans. Yes, I did.

43. At the same time and place, did you state that the light appeared to open some four or five minutes, and after that it did not open?

Ans. Yes, I think I did.

44. At the same time and place, did you state that it opened until it bore 3½ or 4 points on the starboard bow?

Ans. Yes, I think I did.

45. How long before the collision did you slow your engine?

Ans. About four or five minutes.

46. How long before the collision did you see the lights of the Atlantic?

Ans. I saw the white lights some 10 or 12 minutes before the collision.

47. Did you go to get your coat after you saw the lights of the Atlantic?

Ans. No, sir, I had my coat on my arm when I first saw the lights.

48. What was the quality of the Ogdensburgh's signal lamps, and of those you carried at the masthead? Were your signal lamps usually trimmed before midnight, or about at that time, and when and where did you buy some larger and better lamps, soon after the collision, and how long after the collision? and where was the signal lamp located at the time of the collision, and when was it changed, and where was it put?

Ans. The Ogdensburgh's signal lamps, at the time of the collision, were of the first quality, and so were those we carried at the masthead. Her signal lamps were trimmed if they needed it, but I never knew them to be trimmed; they always burned well. We never did buy any larger and better lamps for the Ogdensburgh, after the collision, that I know of. At the time of the collision, the Ogdensburgh carried her signal lamp on a shelf nailed on the pilot house,

and forward of it; we carried it afterwards on top of the bell-frame, but I do not know when it was changed?

49. Did you state, when sworn at Columbus, on the trial of this cause, in the District Court, that you did not see the green light of the Atlantic at all?

Ans. I believe I said, at Columbus, that I did see the green light of the Atlantic when she got close enough. The Atlantic was not over her length off when I first saw her green light.

The following is to stand as a cross-examination, if, on application to the Circuit Court, they would have decided the party entitled to such, otherwise as testimony in chief:—

Ques. by Mr. Spalding, defendants' proctor.

How far distant was the Atlantic when you first saw her red signal light, and how did she appear to be heading at that time?

Ans. About three or four times her length off when I first saw her red light, and she then appeared to be heading stem on to us.

(Mr. Emmons, for the libellants, objects to the question, on the ground that it is not a proper subject for re-examination, as he (libellants' proctor) has not broached that topic on the cross-examination.)

Ques. by Mr. Spalding.

In answering previous questions put to you by counsel for libellants, respecting the lights of the Atlantic seen by you at any time previous to the collision at a greater distance off than half a mile, what lights did you allude to, the common white lights of the Atlantic or her red signal lights?

Ans. Her white lights alone.

Ques. by Mr. Spalding.

What was the bearing of that red light from you in your position on the pilot house when you first discovered it?

Ans. About four points off our starboard bow.

Ques. by Mr. Spalding.

At the time of the collision, was the glass in the signal lamp broken or cracked, or was it broken afterwards?

Ans. The glass of the signal lamp was not broken at the time of the collision to my knowledge.

DE GRASS McNETT.

Deposition of Lewis Young, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at his office in the City of Detroit, on the fifth day of September, A. D. 1854.

Dep'n of Lewis Young.

Question by Mr. Emmons, libellants' proctor.

Ques. Do you remember having a conversation with Mr. McPherson and others, during which you complained of the manner in which the

engine bell of the Ogdensburgh was rung immediately before the collision of that vessel with the Atlantic?

Ans. I do not. There is something in your question like it. I did say that I could not say whether the last bell rung was to stop or to back, because the firemen were hollering so; the first bell, which was to slow, was rung right; probably the second bell might have been rung right, but I could not hear it distinctly, on account of the noise the fireman made in the gangway. I acted upon it as though it was a bell to back.

Ques. Have you not frequently complained to others of the manner in which those bells were rung by McNett, the mate, and have you not said that McNett did not know how to ring the bells?

Ans. I do not believe I ever did. If I have, it has passed out of my knowledge altogether.

Ques. Did you say in the presence of, or to John Delany, the fireman, and immediately before the collision, that the bells were not rung right, and that you did not know what to do, that you did not understand them, or words to that purport or effect?

Ans. No; I do not believe that I ever said such a thing. I know very well that I had to "back;" the last bell I did not understand right; the three first bells I understood very well. The fireman being in the gangway and hollering to me to "back, back!" I could not understand the last bell exactly.

Ques. Did you have a conversation in the grocery under Mr. Chamberlain's warehouse at Cleveland, some time during the winter succeeding the collision, with Mr. Felix Pern and several other gentlemen, in which you stated in substance that the bells of the propeller were not rung rightly, that you could not understand them, and that, had they been rung as they should have been, the collision might have been prevented?

Ans. No; I never had such a conversation, and do not know the man mentioned, nor did I have such a conversation with any other person there present.

Ques. At the same time and place, did you state that you were on the upper deck by the pilot-house talking with McNett just before the collision, and that you saw the red light of the Atlantic, or any part of it, and if so what part?

Ans. I saw the light of the Atlantic, but from below through the starboard gangway, and not from the deck, and I did not tell the man as you state in your question.

Ques. How long before the collision were you on the upper deck by the pilot-house?

Ans. About half an hour, I should think, probably more or less.

Ques. What sort of a light did you see on the Atlantic when you looked from the gangway below?

Ans. I believe it was clear to me as a white light any way, but I cannot tell exactly, as it was smoky.

Ques. What time did your watch commence?

Ans. At twelve, or half past twelve o'clock.

Ques. How long before the collision did the bell to slow the engine ring?

Ans. I suppose it was 5 or 6 minutes, probably not that long. I do not know that I recollect right, as it is so long ago, but I think I am about right. Thinks I said before six or eight minutes, but it has come in my mind now differently. I did not look at my time-piece.

Ques. Are you willing to look at a watch now yourself, that you may see what the time is, then reverse it in your hand so that you cannot see the dial, turning it again whenever you think it is 2, 3, or 4 minutes, or any other time you may be pleased to select for the purpose of testing your capacity to estimate a short period of time?

Ans. I don't know that there is any use in that business; I think that my judgment is about as good as a watch.

Ques. Have you any preference which party recovers in this case, and why do you refuse to hold the watch; and if you had not been told by Mr. Spalding a short time ago, not to answer when the commissioner held the watch, would you not have done so?

Ans. I think I do not want to spend my time foolishly, nor was I born only 2 years ago. I do not expect I am a child that I should not know what I am doing. I have no preference at all which party should recover in this case. I should not have endeavored to estimate the time when the commissioner held the watch, even if Mr. Spalding had not forbidden me to do so.

Ques. When the commissioner was holding the watch, do you now intend to swear that you did not begin to count the time?

Ans. Not at all; it might have come in my mind to measure the time a little, as I did not know but what it was the law to do it, but I did not pay any attention to it.

Ques. There being no law to compel you to estimate the time, do I understand you to say you are not willing to do it, and that you will not?

Ans. No, sir; I will not.

LEWIS YOUNG.

Stipulation A.

It is agreed that the examination of De Grass McNett, and Lewis Young, taken before Wm. D. Wilkins, a Commissioner of the Circuit Court of the United States for the Seventh Circuit and District of Michigan, shall stand as a cross-examination, and to lay a foundation for impeachment of said witnesses, if the said Circuit Court shall decide that under the circumstances of this case on special application or otherwise, the libellants would have been entitled to cross-examine said witnesses. If said Court shall not so decide, then either party may be at liberty to introduce the examinations as his own testimony in chief at his option so far as the same would be competent for that purpose. If in this last contingency, neither

party elects to use the testimony as testimony in chief, the same shall be withdrawn from the files.

Dated, Detroit, Sept. 5th, 1854.

H. H. EMMONS,
for Libellants.

R. P. SPALDING,
for Respondents.

Stipulation.

It is further stipulated that the following statement be admitted on the trial of this cause in the Circuit Court as evidence for the purposes only of this trial.

That the said De Grass McNett, heretofore sworn in this cause, sailed on the steamboat "Lady of the Lake" on Lake Ontario, two months as wheelsman; on sail vessels on all the Lakes, in all the capacities of cook, sailor, 1st and 2d mate, thirteen years, five years of which time he was chief mate, for the two last seasons has been captain of a propeller in Chamberlain and Crawford's (the said respondents) line from Ogdensburgh to Chicago. The two months on board the Lady of the Lake as wheelsman, and the trip from Ogdensburgh to Chicago, and back to the place of collision as first mate of the Ogdensburgh, was all the experience he had on steam vessels. The two years preceding his serving on board of the Lady of the Lake in the spring of 1852, he was in California, and was not engaged in the business of navigation.

Cincinnati, April 18, 1855.

R. P. SPALDING,
Proctor for Respondents.

Deposition of William Barnes, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at his office in the City of Detroit, on the twenty-first day of June, A. D. 1854.

Dep'n of Wm. Barnes.

Witness saith: Am aged about twenty-six years.

(The counsel for the libellants propounding a question to the witness, the claimants' proctor now objects, insisting either that the witness be permitted to proceed and testify in chief, or that each separate question and the answer thereto be written down.)

Am by business a sailor; have followed the waters for about eight years—before the mast, as wheelsman, and as second mate. I have been wheelsman for three seasons, and was then promoted to second mate. My home is in Ogdensburgh, in the State of New York. Remembers the collision between the propeller Ogdensburgh and steamer Atlantic, in 1852, off Long Point; was then wheelsman on the propeller Ogdensburgh. I was on duty at the time of the collision. I came on duty at twelve o'clock that night. The collision

happened between 1 and 2 o'clock A.M. De Grass McNett, the Ogdensburgh's first mate, had the watch on deck on that night at that time. Capt. Robt. Richardson was then captain of the Ogdensburgh; Henry McPherson was second mate; Thomas McGrain was her porter and steward; Charles Walsh was her cook. I saw the light of the Atlantic before the collision about from 1 to 3 miles off; cannot state with certainty; made her light from 2 to 2½ points over our starboard bow, bearing E. by N. or E. ½ N. I cannot tell the bearing exactly, but that is what I think it was. I was then on duty as wheelsman, steering the vessel. This bearing, if I have given it right, would make the Atlantic to the northward and eastward of us, but I am not positive that that was her exact bearing. When I first made the Atlantic's lights, I supposed her to be a steamboat bound up'ard, on the route of the North Shore boats. About this time Mr. McNett was on deck, and just before I discovered the light, he was setting down on a stool in front of the pilot house. As he got up, he walked two or three steps forward, and then, turning round, asked me if I saw that light; I answered that I did. He then told me to keep on my course. He then went round to his room, and got his coat. When he came back he went right in front of the pilot house; and I remember that the light which stood on the pilot house, just below the pilot-house windows, and about four feet from the deck, reflected on his coat, he then standing about four feet from the pilot house. I observed that the lights, as they reflected on his coat, were not burning brightly. These lights, if they were not trimmed, at about 12 o'clock, burned generally very dim; when the lights were well trimmed, they would reflect brightly on the deck, so as to show a person plainly who might be standing forward on the deck, on a dark night. On this occasion they were not burning in that manner. In my judgment those lights, burning as they were then, might have been seen on an ordinary night at a distance of two or three lengths of the propeller; but this is merely an estimate, which I cannot make with certainty. I have known these lights to go out altogether. It was usual on other occasions to trim them from time to time, generally between twelve and two o'clock. Does not know whether they had been trimmed on that night. When McNett came round by the pilot house I did not observe any reflection of the green light upon him; I have called, on one occasion, the attention of the second mate to these lights, the wind either having blown them out, or they having gone out of themselves. The Ogdensburgh had two globe lamps at her cross-trees; they were common sized lamps. On the trip after the collision, new lamps were got for the cross-trees, which, I think, were larger than the others, which had been there at the time of the collision. After McNett had stood there by the pilot house, he threw his coat up on the pilot house, and I think he set a stool up there, and then went up on the pilot house himself. Just before the collision McNett told me to put the wheel a-starboard. Will not be certain whether I had seen the Atlantic's red light just before I heard this

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order given; might have seen it before I heard the order, but don't now recollect.

Ques. by Mr. Emmons. Was this order one which you expected to receive, from the position of the vessels? and make any explanations which you have to make in relation to it.

(Objected to by Mr. Spalding as leading in its character.)

Ans. I expected to have received an order to port. I thought, from the position of the vessels, and the way the Atlantic kept nearing us, that it was our duty to port. I lighted up the wheel a spoke, or may be two. When he first began to speak, I had it in my head that it was port he meant, and I had commenced to turn the wheel to port a spoke or two; I was sure that McNett had said starboard. He (McN.) stood by the top of the pilot house, looking down at me through the scuttle. I looked up to see whether he was looking at me, thinking that if he was, he would have a chance to change the way in which I was putting the wheel, if I was not doing right. Then I put the wheel a-starboard. After I had got the wheel one turn a-starboard; it went pretty hard. When the vessels struck, I had my leg over a spoke of the wheel, as it were setting on the wheel. I tried to get the wheel hard a-starboard, putting up as hard as I could; but I could not get it hard a-starboard within a spoke or two. The speed of the vessel makes a difference in the ease with which I can put the wheel to starboard; it would not be near as hard to do it if she was standing still.

Ques. by Mr. Emmons. You testified that you expected an order to port, when you were ordered to starboard, and that you are not quite certain whether you saw the Atlantic's red light before this order was given, or not. If you had seen the red light before this order was given, would it have had any influence upon your judgment as to what order ought to be given?

Ans. Seeing the red light ahead of us, or a little on either bow, I should think we had ought to port, especially seeing the red light on our starboard bow; I would then think she wanted to go on the other side of us.

Ques. Suppose you had ported hard when you starboarded, what would have been the result?

Ans. My opinion would be that we might have gone clear of her: and if we had not gone clear, the collision would not have been so heavy as it was. The Ogdensburgh would turn easiest to port. She would swing her head to starboard the easiest. Lewis Young was the 2d engineer, and was on duty at the time of the collision. Before the collision, I saw him upon deck, in front of the pilot house, talking with the mate, De Grass McNett, but I did not hear what they said.

Ques. What did Young tell you subsequently about seeing the lights of the Atlantic?

(Objected to by Mr. Spalding, claimants' proctor.)

Ans. I heard him say that he saw the Atlantic's lights while he

was on deck, and that he asked the mate if it was not Long Point light.

The first I saw of Capt. Richardson, during my watch, that I remember of, was after the collision, when I saw him out on deck. Heard him ask for some one to get him a light. I left the pilot house, went to my room, and got one. I went by McNett's room, on my way to my room. There was no light burning in McNett's room. When I came back forward, with the lights, I did not notice the signal lights at all. The next thing I did was to go aft and help get the small boat launched, in order to go forward under the bows. The two mates, McNett and McPherson, went in the small boat with me.

Ques. Did you hear any order given by Capt. Richardson about the signal light at about that time, and if so, what?

(Objected to by Mr. Spalding.)

Ans. I heard Capt. Richardson call some one (I think it was the porter, but will not be certain), and told him to trim the signal light. Did not see him trim it, but noticed, as we went up to the Atlantic, that the signal light burned very well. McNett, McPherson, and I, went in the small boat round under the propeller's bows, examined her stem, found she was leaking some, and caulked it up as well as we could. After we had got through with this, we came upon deck again.

Ques. Did you then hear any conversation between Capt. Richardson and McNett, the first mate, and if so, what was it?

(Objected to by Mr. Spalding, claimants' proctor.)

Ans. I heard Capt. Richardson ask McNett if he had seen her lights, and I will not be positive whether he said "her lights" or "her red light;" I think he said "her red light," but will not be positive. McNett said he did see them. Richardson then said: "Why the devil didn't you port your wheel, then?" McNett replied that he thought it was his duty to keep on his course. Did not hear much more that was said, as I went on forward to help unbend the jib. Our other wheelsman's name was Albert Comstock.

Ques. What conversation passed between you and Albert Comstock, after you went into the wheel house, while going to the Atlantic?

(Objected to by Mr. Spalding, claimants' proctor.)

Ans. Don't know as I could tell that. He was asking me a good many questions about the collision, and what was done, and I told him, but don't remember whether I explained to him about expecting an order to port or not.

After the collision, the next trip up, the signal light was moved up on top of the pilot house, and was kept up there while I remained about the propeller. Suppose that the object of this was that it might be seen better up there. I was sworn before the Coroner's Jury, at Erie, Penna. I believe I was out on the dock at Erie only once,

or perhaps twice or thrice, towards night, as we lay there after the collision.

Ques. Do you know anything about the Ogdensburgh's leaving Erie sooner than she otherwise would have done, on account of preparations being made to arrest McNett criminally, for causing the collision, after he had been sworn before the Coroner's Jury?

(Objected to by Mr. Spalding, claimants' proctor.)

Ans. I do not, only from what I heard Capt. Richardson and Byron Harris talking about, after we had got out of there.

Ques. About how many rods off was the Atlantic, so far as you can judge, when you first saw her red light, or how many lengths of the boat off was she?

Ans. I suppose she might have been three or four times her length off, may be further, or perhaps not so far; I was in a difficult position to judge, and cannot positively state. It was my duty to pay attention to the steering of the vessel. I did not watch the Atlantic's lights as they approached. I have no means of judging of the time or measuring the distance. Did not look at any timepiece.

WILLIAM BARNES.

Deposition of Henry McPherson, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at his office in the City of Detroit, on the twenty-sixth day of April, A. D. 1854.

Dep'n of H. McPherson.

Witness saith: Am thirty-one years of age and upwards, and by occupation a mariner. Have been a mariner for about 13 years. Have served before the mast as 2d mate and as mate. Remembers the occasion of the collision between the steamer Atlantic and the propeller Ogdensburgh, on Lake Erie, near Long Point, on the morning of the 19th of August, 1852. Shipped the day after William Barnes did on the propeller Ogdensburgh. Shipped on her as 2d mate on the 11th August, 1852. William Barnes was wheelsman on the Ogdensburgh. My watch on deck commenced at 8 o'clock P. M., and ended at 12 o'clock P. M, on that evening. The course I run during my watch was E. N. E. When my watch commenced, we were a little below Fair Port, and three or four miles from shore. We were about 20 or 25 miles from Erie, as I should judge, when my watch ended. Could not see Erie, but should judge we were that distance. We passed Conneaut light at about 11 o'clock P. M., about eight miles to the northward of the light. Just before my watch ended, the captain told me to let her run as she was then running, and then haul her up about N. E. by E. at 12 o'clock. Accordingly, at about twelve o'clock, I did so haul her up about N. E. by E. I have seen a pamphlet which purports to be my testimony as given at Columbus. That pamphlet does not contain my testimony as I gave it with reference to the

courses; the courses therein given are wrong, and not as I stated. Have had a controversy with Capt. Richardson with respect to my courses, when my deposition was taken at Cleveland. Capt. Richardson contending that the courses were as printed in the pamphlet, the deponent contending that they were as he now states them. I only saw the captain once on deck that night, until after the collision. He came out and asked me how I was steering, I told him, and he told me to alter my course and haul her up a point to the northward when I left my watch. He was then dressed in his shirt, pants, a pair of slippers on. The captain came out between 10 and 11 P. M. When I left the deck the signal lights were burning, but very dim; the lights on the cross trees were in the same condition. The binnacle light was burning, so as to give a light to see to steer by. It would only light the pilot house, and would not show a light to an approaching vessel ahead. Thinks that the cross tree lights, as they were burning when I went to bed, could not be seen at over a mile's distance from the vessel. The signal light could not be seen over once or twice the length of the boat off. It occurred to me that the signal lights were so dim that they ought to be trimmed. I went to the steward's room, put my hand on him, and told him to get up and trim the lights, as they were almost out. There was a great deal of fault found with the signal lights by Capt. Richardson, the mate, and the steward, that they were not good lights, and would not burn after 12 o'clock without trimming. I have called the porter, three or four times in the course of a night, to trim them. I have often seen them go out entirely, that is, I have after the collision, often seen them go out entirely. I subsequently found that the porter was pretty hard to wake. The orders from Capt. Richardson were to call the porter every night at 12 o'clock to have the lights trimmed. After I had called the porter, as before stated, I went to the pantry and got something to eat. I then went down on the main deck to the engine room. Thinks I was about the boat an hour after I came off watch before I went to bed. Cannot tell exactly how long I was in bed. Heard the engine bells ring, and immediately after, the collision occurred. When I am out on the Lake, the ringing of the engine bell usually awakes me. It is a large bell and can be heard clear forward. The ringing of the bell and the collision was about together. Had the bells been rung before, I would have been likely to have heard them. The collision threw me out of my berth. If there had been time, on hearing the bell I should have got up. My berth was on the larboard side, on the promenade deck, and was the first state room forward, and opens out on the deck. Having been thrown out I went right on deck, forward and in front of the pilot house, and within three or four feet of the signal light of the propeller which was placed on the front of the pilot house and between 3 and 4 feet from the promenade deck. At that time I cannot say whether the signal lights were burning or not, as I did not notice them, but if burning it must have been very dimly. Do

not think that the signal light, where it was then, was in as good a place as if it had been on top of the pilot house. Was made mate soon after the collision, and then had the signal light placed on top of the pilot house. I then went forward and looked over the bows; found the stem knocked off her bows, saw a piece of the stem hanging. I then helped the mate and wheelsman to hoist a boat over, and went round to the vessel's bows to examine; we stopped up a hole, which we found in the bows, with old clothes. I then went back alongside of the boat, and we three came upon deck. Heard a conversation between McNett and the captain. The captain asked McNett if he saw the steamboat's red light, McNett replied that he did; Capt. Richardson then asked him "why in the devil he didn't port." McNett said that he thought it was his duty to keep his course. I then went to the main deck to try the pumps, and then returned to the promenade deck. I there noticed that the signal light was burning good, and better than when I had left the deck at 12 o'clock. Remained on the Ogdensburgh the balance of the season of 1852 as 1st mate. Remembers having a conversation with McNett when laying in the Welland Canal, the Sunday after the collision. He said he saw the red light of the Atlantic some 10 or 15 minutes before the collision. He said that had the Atlantic kept her course, he would have crossed their bows, and the Atlantic would have passed under his stern, and that he expected she would have kept her course to enable him to do so. She ported, and that gave them a greater distance to run. Heard at Erie explanations given by McNett, and saw him drawing diagrams there on the dock with a piece of chalk, which he got from a carpenter who was fixing the boat. He drew a line representing the course of the Atlantic on her usual course from Buffalo to Detroit, and another line representing the Ogdensburgh on her course from the south shore of the Lake to the Welland Canal. This latter line crossed the course of the Atlantic, and in front of where he represented the Atlantic to be on her course. He then located his vessel on her line, and she was to the southward of the course represented to be the Atlantic's. He said then and there that he saw the Atlantic's red light for about 10 or 15 minutes before the collision. He explained from the lines how the Atlantic by porting made him a longer distance to run, and how, if she had kept her course, she would have passed under his stern. The large sized globe lamps which were sometimes put at the cross-trees, were, I think, got by Capt. Richardson, at Oswego, after the collision. I slept in the mate's room; there was no light in it at the time of the collision. The engineer's room was aft on the larboard side, on the promenade deck. The signal light was taken down and put out before we got into Erie; after the collision, I saw the porter take it down. Knows Ebenezer Waite, 1st engineer of the Ogdensburgh. Thinks he was considerably frightened on the night of the collision. Heard him try to persuade Capt. Richardson not to go to the steamboat, as there were so many passengers on her that they would sink him. Knows Lewis

Young, the 2d engineer, who was in charge of the engine at the time of the collision, and has heard him on several occasions narrate the circumstances as they took place. Heard him say that the first bells that were rung were two bells, and that just as she commenced to back the collision occurred. He complained that McNett did not know how to ring the bells; said that their first should have been a bell to "slow." Young said that he went on promenade deck a few minutes before the collision, and saw a light, that he then went down and oiled his engine; that after he oiled his engine he came up, and just as he had got on the main deck, the two bells rang. That he jumped to his engine and stopped and commenced to back it, and that then the collision occurred. And that the ringing of the bells, the stopping and backing of the engine, and the collision, came in immediate succession.

Ques. You stated in your former deposition that you heard Capt. Petty say in substance: "Do not go near the Atlantic; she has got six hundred passengers on, and they will sink you." You also state that you heard the engineer, Waite, say substantially the same thing. Taking into consideration the confusion and noise that existed, your own occupation at the time, are you willing to swear positively that the words of Capt. Petty were not as follows: "For God's sake, do go to the Atlantic. I have got six hundred passengers aboard, and she is sinking."

Ans. I understood him to say what I before swore he did say. I stood close by him, and am confident that he said what I have testified he did say. I am satisfied that his reply was, "For God's sake, don't go near her." Thinks McNett at this time was in the boat picking up passengers. Am now in the employ of Whitcomb & Co. on the sch'r Mount Vernon as 1st mate. The Ogdensburgh's stem was all broken up and gone eight and ½ feet under water, by the collision.

H. M'PHERSON.

Deposition of Thomas McGrain, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at his office in the City of Detroit, on the twenty-sixth day of April, A. D. 1854.

Dep'n of Tho's McGrain.

Witness saith: Is twenty-two years of age, and is by occupation a sailor. Have been a sailor for about eight or nine years, in the capacity of cook, waiter, steward and other capacities. Remembers the occasion of the collision between the propeller Ogdensburgh and steamer Atlantic on the 19th of August, 1852. Was employed at that time on the propeller Ogdensburgh in the capacities of steward and porter. The first I knew of the collision is, that I was woke up by the propeller's careening over, and a man singing out that we were sinking. I got up and went up on the promenade deck about

midships. I then went down to my room again, put on my clothes, and returned to the promenade deck. I there saw the captain of the propeller and a passenger on the vessel. Saw also a number of other people. The captain asked me to go to his room and get some old clothes to stop the leak, for the vessel had sprung a leak. I went to his room and got an old coat and a pair of pants. I gave them to the captain, who threw them down into the small boat under the bows. I was going aft when he sung out to me to "fix that light," pointing, at the same time, to the signal light. I brushed off the scum or hard crust that was on the top of the wick of the light, picked it up, and put it back in its place. At the time I trimmed the signal light it was burning dim. Thinks it could be seen at a distance of the length of the boat off, or perhaps a little more. One of the tubes of this signal light was entirely out. This tube was on the side next to the green light. At this time the captain stood on the forward deck. I suppose that he saw me plainly. I usually trimmed this and other lights between 12 and 2 o'clock P. M. I was sometimes called to trim lights between three and four times a night. I sometimes found some of them entirely out. I have heard several persons on the propeller, the mate among the number, complain of the signal light, and I have complained of it myself. I have put cloths over the top of the lamp on the mast head, and over the top of the signal light, and on the side where the signal light shut, in case of wind, to prevent its being blown out. Lighted the signal light on that night between 7 and 8 o'clock P. M. That lamp, when lighted at seven or eight o'clock, and not trimmed before twelve o'clock P. M., would not give sufficient light to be seen by a vessel approaching at a distance of a length or two of the propeller off, on the night of the collision or any other night. I did not trim the signal light on the night of the collision until after the collision; nor did I trim it until after the collision, when Captain Richardson told me to. I was a pretty sound sleeper at the time of the collision, being frequently disturbed of my rest by being called up to attend to my duties. I had frequently to be shaken to wake me up; a man might have called me, and I not have heard him. Knows Wm. Barnes, who was wheelsman of the Ogdensburgh at the time of the collision. I heard him say that he expected the order to port just before the collision, instead of "starboard." Have heard him say this at different times. He said he so strongly expected an order to port that he had began to turn the wheel one spoke or so to port, and held on and looked up and saw the mate looking down on him. Supposing he, the mate, had made a mistake in his order, he was about to ask him if he had not mistaken the order, and had actually began to turn the wheel to port, when, looking up and seeing the mate looking down upon him, he obeyed the order as given. He said that if the order had been given to port, he thought they would have gone clear. When he made these remarks, he was speaking of the conduct of McNett, and said he thought that his order was wrong,

and expressing surprise at the order given by McNett. Have heard Captain Richardson ask McNett if he saw any light. This was immediately after McNett had come on deck from stuffing the hole. McNett replied that he did. I went into Erie on the Ogdensburgh; saw chalk marks on the dock at Erie. Supposed they were made to show the way the vessels came together. Have heard McNett describe how he intended to run, and the courses of the vessel on the night of the collision. He said that the propeller was coming from the south of the lake, and that the steamer was on her course from Buffalo to Detroit. He being to the southward, saw the steamer, and supposed that he could cross her bows, and would have crossed her bows, had the Atlantic not ported her wheel. Has heard this talked over on the Ogdensburgh, at different times while I was on the Ogdensburgh. I never heard any other explanation given of the collision than the above. Soon after the collision, the signal light was removed to the top of the pilot house. I took down the signal light of the propeller on the morning of the collision, half an hour after daylight. Took it down off the deck and blowed it out. There was no light in the captain's room when I went to bed, nor when I got up, after the collision. The captain usually had the curtains drawn in his room. When I got up the lights at the Ogdensburgh's cross-trees were burning pretty dim. In calm weather we usually put two small, common deck lamps up at the cross-trees. These were common lanterns. Cannot state positively that some large lamps that were afterwards on the propeller were there then, or not. If it was a calm night I probably put up the small ones, as the wind would blow the large ones out without cloths on the top of them; and in calm weather I used the little ones to prevent the trouble of taking the cloths off the big ones. After the collision, the light in the skylight had its chimney and globe knocked off, and was burning dimly, as there was but little oil in it. I refilled it with oil, brushed off the top, and relit it. The lights in the mates' room were two small lamps. They would generally burn till 12 or 1 o'clock, or may be not so long. The signal light was on the front of the pilot house, and about half way up the pilot house, and below the pilot house windows. When Capt. Petty came on board, I brought brandy on deck for his head. He was said to be hurt. Knows Ebenezer Waite, engineer; thinks he was very much frightened that night. Heard him on that night say to Captain Richardson that he had better not go close up to the Atlantic, that she was loaded with passengers, and that they would come on so fast that they would sink her. Knows Lewis Young, 2d engineer of the Ogdensburgh. Heard him say that he went on the forward part of the deck on the night of the collision, and asked McNett what light that was off on the larboard hand, and that McNett told him it was Long Point light. He said this was 8 or 10 minutes before the collision. The 2d engineer said that he then went down below, took his oil can, went down and oiled his engine. That he then came on the main

deck; at that time he heard two bells ring (that is, the propeller's engine bells), that he slowed the propeller, then stopped and backed her; and as he commenced backing her the collision took place. That the bell to slow, the order to back, and the collision came altogether. Have heard the 2d engineer say that the propeller could not be stopped when under such headway as at that time, without throwing the engine on the centre. Have heard him talk in this manner at different times. Has heard him say that the bells rung by McNett, as above stated, were not rung right, and that McNett did not know how to ring the bells. That he should have rung to slow, then stop, then to back, but that when he was under full headway he rung for him to back.

THOMAS M'GRAIN.

Deposition of Charles M. Welch, taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the second day of June, A. D. 1854.

Dep'n of C. M. Welch.

1. State your age, residence, and the length of time you have been engaged sailing, and in what capacity?

Ans. I am twenty-four years of age. I reside in East Cleveland, Ohio. I am a sailor; have been eight years a sailor; acted as cook and porter. I have acted in that capacity on steamboats and propellers. I have sailed for Messrs. Chamberlin and Crawford, in 1852, on board the propeller Ogdensburgh, and also this season, until about one week ago, on board the Boston. At the time of the trial of this case in Columbus last spring, I was at home in East Cleveland. I first knew I was to testify in this case three or four weeks ago. When I was first applied to it was merely an inquiry as to what I knew about the collision.

(The foregoing shall be considered as an answer to the first interrogatory.)

It is here agreed that the interrogatories herewith filed shall be taken as a part of the depositions, and as calling out the answers hereafter given.

2. Do you remember the collision of the propeller Ogdensburgh and the Atlantic in August, 1852? On what vessel were you at the time, when did you ship on her, and how long did you remain, and in what capacity?

Ans. I do. I was at the time on the Ogdensburgh; shipped on her the first trip in the spring, and remained until the last trip in the fall, and acted as cook.

3. Where was your room on said vessel?

Ans. My room was about midships starboard side, on the upper deck.

4. What wakened you on the night of the collision first, previous to it?

Ans. I was awakened by hearing McNett, the mate of the propeller, saying, "Where in hell and damnation are you coming to," immediately after which the boats struck.

5. As soon as they struck what did you do?

Ans. I jumped up, ran out as far as the captain's room, saw that we had run into something, and then went back and put on my pants.

6. Was there a light in the captain's room as you came to it?

Ans. There was no light in the captain's room as I came to it.

7. After going out undressed, what did you do, and where did you go? and after putting on your pants and wakening the men, where did you go?

Ans. After putting on my pantaloons, I went back on to the bow of the boat; when I went to put on my pants, I wakened the watchman and second cook. I then return forward.

8. On what part of the boat did you first see Captain Richardson, McNett, McPherson, and Barnes, and where was you at the time?

Ans. I first saw Captain Richardson when I first went out, coming out of his room; he had on his pantaloons and one boot. I saw McPherson, McNett, and Barnes, when I returned forward the second time after putting on my pantaloons.

9. When did McGrain come on forward, before or after you, and when did Meeker come, and what was Meeker's duty aboard?

Ans. McGrain, who was the porter and steward of the propeller, came on the upper deck forward, after I did. Meeker came immediately after I put on my pants. He was second cook. Meeker was one of the men who slept in the room with me. The watchman was the other. I think his name was William Kennedy.

10. What order did Captain Richardson give about the small boats; who did he send for a light; who went in the boat?

Ans. He ordered the small boat down, and the men to get into it, and see what the damage was. He sent William Barnes the wheelsman for a light. McNett, the first mate, McPherson, the second mate, and Barnes, got into the boat.

11. While in the forward part of the boat, what conversation did you hear pass between McNett and Richardson, if any? to what did it relate, and how near did you stand to them, and do you remember any reply by McNett? Did Capt. Richardson agree with McNett?

Ans. I heard Capt. Richardson ask McNett why he did not do something that he ought to have done. I don't know what it was. I heard him cursing him for not having done it. It related to avoiding the collision. I stood close by them. McNett said that he thought that it was his place to keep where he did keep. Capt. Richardson did not agree with McNett.

12. What did Capt. Richardson ask you about McGrain, and your reply?

Ans. He says Where is Tommy, and I said There he is, pointing to him. Captain Richardson then told Tommy to trim the signal lights. By Tommy is meant McGrain, the porter.

13. What order did he then give McGrain?

Ans. It is answered by the 12th, that is, he ordered him to trim the lights.

14. And at that time what did you notice as to the burning of the signal lights, and as to their reflecting on the deck?

Ans. At that time they were burning very dim, I mean the signal lights. They were not burning hardly at all. They did not reflect any on the deck until aftey they were trimmed.

15. What did you see McGrain do immediately after the command? Do you know whether he put oil in?

Ans. I saw McGrain take the lights down and prick the wicks up. I don't know whether he put oil in or not.

16. After the lights were trimmed what effect did their burning produce on the deck?

Ans. It reflected on the deck so that we could see how the deck was. We saw that the deck was dropped down on the larboard side forward by the breaking of the stanchions.

17. As the signal lights were burning before they were trimmed, how far, in your judgment, could they be seen on an ordinary night?

Ans. I should think they could not be seen more than twice or three times the length of the vessel before they were trimmed.

18. State what you have noticed as to these lights on other occasions when they were not trimmed towards twelve or one o'clock.

Ans. I have noticed that they would be burning dimly.

19. State the general character of the lights, and what you have heard said about them by the crew of the Ogdensburgh, both the signal lights and those of the cross-trees, and what practice was pursued to protect them from wind?

(Mr. Spalding objects to the witness giving hearsay testimony.)

Ans. The signal lamps and those at the cross-tree were not very good. (The witness first said lights instead of lamps, and at Mr. Gardner's suggestion he altered it to lamps.) I have heard them all say they were not very good, McGrain especially. When we were outside we had to put cloths around them to keep them from being blown out, if there was any wind.

20. Where were signal lamps located at the time of the collision, and where was it afterwards placed—how much larger than before?

Ans. In front of the pilot-house on the shelf, about four feet above the deck, just below the front windows of the pilot-house. I do not remember precisely how soon after it was changed. The alteration was either made at Kingston, or on the same trip round. It was soon afterwards, that is, after the collision, put on the bell-frame over the pilot-house, about six or seven feet higher than it was before.

21. What kind of lamps were at the cross-trees at the time of the collision, and what kind of lamp was afterwards placed there?

Ans. They were, at the time of the collision, small hand lamps,

after the collision, I think, on the same trip at Kingston, the captain bought larger lamps, which were afterwards used at the cross-trees. I think he brought them from Oswego, but am not certain.

22. State what was done with the lamps at the cross-trees to prevent them going out when there was wind, before the collision.

Ans. They were muffled around the top with cloths.

23. Did you see Capt. Petty come aboard? When did you see Mr. Waite, your engineer, first after he came on board, and where was Capt. Petty at the same time?

Ans. I saw him when he came on the upper deck; Mr. Wait, the engineer, came up the stairs just ahead of Capt. Petty, when they came on to the upper deck.

24. What did Waite say to Capt. Richardson? How close was you at the time, what was his appearance, and had he any family aboard?

Ans. As he came along on the promenade deck, he stepped his foot on the rail, and put his hand upon the hurricane deck, and "tells" Captain Richardson that there was six or seven hundred passengers there, and that we had not better go to her, that the passengers would sink us. I mean that Waite said so to Capt. Richardson. The appearance of Waite was that of a man very frightened. I think he was the most badly scared of any man aboard. Mr. Waite's wife and two children were on board.

25. Did you hear Captain Petty make any remarks, and how near were you to him? Do you think you would have heard it if he had said anything?

26. State the circumstances under which you saw Captain Petty afterwards, and how you came to go to him.

25 and 26. To the 25th and 26th, he says, I did not. I was right by him as long as he was on the promenade deck; he made no remarks. I should have heard him if he had. He might have made remarks before he came along up. Two or three came to me for brandy to put on to Captain Petty's head; I began to think they drank it themselves, and I took some and carried it up myself to Captain Petty. I found him on the hurricane deck sitting flat on the deck and leaning his head on his hand. This was on the Ogdensburgh.

27. On the Sunday following the collision, and when the Ogdensburgh was lying in the Welland Canal, and on the bow of the Ogdensburgh, do you remember that Captain Richardson and McNett had a conversation about the cause of the collision, and if so, what McNett say?

Ans. I do; I did hear a conversation on that occasion, and McNett said that if the Atlantic had kept her course, that he could have went clear of her across her bows, but that the Atlantic ported her helm, gave the Ogdensburgh a longer distance to run, which if she had not done, the Atlantic would have passed under our stern.

28. State when you saw McGrain carrying away the signal lamps after the collision.

Ans. Shortly after daylight, before we got into Erie, and soon after we left the Atlantic.

Cross-examined by R. P. Spalding, Esq., Att'y for Defendants.

Ques. You say you was first applied to to become a witness in this case, or to tell what you knew about the collision about three or four weeks ago. Who came to talk with you then, and where was you at the time?

Ans. I was on the propeller Boston; she was lying at Cleveland. Thomas McGrain, formerly the porter and steward of the propeller Ogdensburgh, came to me and told me that Mr. Gardner wanted to see me.

Ques. In whose employ is McGrain at this time, on what vessel was he employed when he came to you, and in what capacity?

Ans. In Mr. Ward's employ. He was employed on the steamboat Cleveland belonging to Eber B. Ward *et al.* He acted as steward on board the Cleveland, and does yet.

Ques. In whose employ is Mr. Gardner?

Ans. I cannot tell, unless he is in his own or Mr. Ward's. In this suit he is acting as Mr. Ward's agent, as I understand it.

Ques. When you left the employ of Chamberlain and Crawford, what vessel did you ship on board of, or by whom was you employed?

Ans. I don't know as I have shipped on board of anything; I go up on the Cleveland and come down on her.

Ques. When you made up your mind to leave the employ of Chamberlin and Crawford, did you have a settlement with them or either of them, and did you let them know that you was going away?

Ans. I had no settlement, but I told them I was going to quit. I did not tell Chamberlain and Crawford, but told the Captain, McNett, and the clerk, O'Niell, that I was going to quit. I told the clerk about supper time that I wanted to settle with him, and he went in the office and said he had not got time, that he wanted to eat his supper, and couldn't settle. I asked him for some money. He gave me $20, and I got supper and put things all right, and left and went up the same night on the Cleveland to Detroit. I stopped in Detroit at a hotel.

CHARLES M. WELCH.

Deposition of Norton C. Meeker, taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the second day of June, A. D. 1854.

Dep'n of N. C. Meeker.

Questions put by Messrs. Emmons & Newbery.

1st. State your residence, occupation, and age.

Ans. I reside in East Cleveland, Cuyahoga County, Ohio. I am now engaged principally in farming, am twenty-two years of age.

2. Do you remember the collision between the Atlantic and Ogdensburgh in August, 1852?

Ans. I remember the collison in August, 1852.

3. State on what vessel you was, in what capacity, how long you had been there, how long you had sailed previously, and in what boat, and where have you since resided, and what has been your employment?

Ans. I was on the Ogdensburgh in the capacity of second cook. I had been on her three days at the time of the collision. Prior to that I had sailed twenty-one days on the Boston. I have since resided in East Cleveland, Cuyahoga Co., Ohio, and have been farming.

3. Who was the first cook; and with whom did you room; how came you to go aboard; and how long have you known Welch?

Ans. Charles Welch was the first cook. I roomed with Mr. Welch and another man. Don't know who he was. I went aboard because Charles Welch came out after me. I have known him since I can remember.

5. Where was you at the time of the collision? did it awaken you, and who aroused you?

Ans. I was abed in my room and asleep. The collision started me up but did not fully waken me. Charles Welch roused me.

6. What clothes did you put on, and where did you go, and who with; and can you state why you kept with any particular person, if any one?

Ans. I put on a pair of pants; I followed Charley right out forward, because I knew that he had always been with me, and that he would take care of me as far as he could. I knew that he had experience as a sailor.

7. Who did you see on the promenade deck forward, when you got out there from you room?

Ans. I saw the captain, and mate, and the steward; there were others there, I did not know them.

8. Do you recollect of seeing men going into a small boat to examine injury?

Ans. I remember that the mate went over, others went whose names I did not know.

9. Did you observe the signal lights of the Ogdensburgh immediately after the collision? State why you looked at them.

Ans. I was out on the deck forward; it was broken down, but I did not know it at the time; some one (I took him to be the mate) told me to get off from the part that was let down. I observed the lights, they were dim, which was the reason that I got upon the broken part. The captain told the steward to trim the lights, and therefore I observed them. They were at that time very dim.

10. Soon after you got on to the bow of the boat, was any order given to the steward by the captain in reference to signal lights?

Ans. I heard no other order than the one stated in the 9th answer.

11. Did you then look at the lights and observe them closely?

Ans. I did, sir; after they were trimmed I could see that the deck was broken to pieces.

12. At both times above mentioned, state how the lights were burning.

The 12th not put.

13. After the order was given by Captain Richardson, what did the steward do?

Ans. He immediately took the red light down and set it on the deck, and stepped down two steps and trimmed it.

14. What was the condition of the lamp-wick when it was opened, and how far from the steward was you standing at the time?

Ans. The condition of the wick was very poor. I should think there was a crust on the wick. I stood three or four feet from the steward while he trimmed them.

15. As signal light was then burning before being trimmed, in an ordinary night, how far in your judgment, could they be seen?

Ans. I should think from ten to twenty rods.

16. After they were trimmed and replaced, what did you notice as to the burning?

Ans. They burned brighter, and we could see all round forward.

17. Where were signal lamps located?

Ans. On the wheel-house, on a little shelf in front of the wheel-house, just below the windows.

18. What notice did you take of light at cross-trees?

Ans. I did not take any notice of them.

19. When were signal lights taken off the deck, and by whom?

Ans. They were taken off by McGrain, the steward, just at day-light, or soon after.

20. What conversation did you hear between Richardson and McNett immediately after the collision, and did agree as to the duty of the mate?

Ans. Richardson asked the mate if he saw the red light of the steamboat; he asked him with an oath, why he did not port; he asked him why the hell he did not port, or used some other oath. McNett said that he thought it his duty to keep his course. I don't know whether Richardson and McNett agreed about that or not.

21. Did you notice when a man who was called captain of the steamboat, was taken on board?

Ans. I did.

22. State what he said to those who took him on board.

Ans. He was telling the mate (I think it was the mate) that there was some six or seven hundred passengers on board the steamer, and that he had better go to her as soon as he could, as she was sinking.

23. State what one of the men immediately afterwards said to Captain Richardson.

Ans. One of the men went where the captain was, and put his foot on the railing and his hand against the wheel house, and told the captain not to go near the steamer, as she had some six or seven hundred passengers on board, and they would sink us. I know that I heard that, because I was looking out for myself. He was the man who came up on deck with with Captain Petty. I mean by wheel-house the place where the steersman was.

24. Did you hear Captain Petty make such a statement, and where was Capt. Petty, and how near was you to him?

Ans. I did not. Capt. Petty was a few feet behind the man that told our captain not to go to the steamer. I was from six to eight feet away from them.

25. State what you know as to some brandy being sent for to put on Petty's head.

Ans. There were two or three men came down to the cook-room to Welch for brandy to put on Captain Petty's head; but they came so often that Welch suspected that they used it themselves, and went to Capt. Petty with the brandy himself.

26. At the time the propeller started for the Atlantic, could you see her lights, and how long did you see them?

Ans. I did not see them when we started to go to her; they had gone out.

27. State when you first heard the shrieking of the passengers, and what was done on your boat after it was told Captain Richardson.

Ans. The first shrieking I heard was after we had got the propeller under way. We hauled to and went up to her, and lashed on. The captain stopped his steam for the purpose of listening, when Charles Welch told him that he could hear the passengers shriek. After the steam was stopped, we could hear the shrieking more plainly. We had but just started.

28. How far off did you suppose the Atlantic to be when the propeller started to go to her?

Ans. From fifty to one hundred rods. I stood within about five feet of the wheel-house, and watched her until all her lights disappeared. I then heard the passengers scream; told Welch of it, and he told the captain, and what I have stated took place.

Cross-examined by Mr. Spalding.

Ques. When was you first called upon, and by whom, to give testimony in this case?

Ans. Last Wednesday, by Charles Welch. He came out to East Cleveland, and wanted me to take a ride with him; I was cutting stone, and told him I could not. He told me I had to go. I asked what for, and he said the suit was coming off between the Atlantic and the Ogdensburgh. I then quit and came into Cleveland with him, and saw Mr. Gardner, and went up with Mr. Gardner on the St. Bt. Cleveland to Detroit, and came down from there on the same boat last night.

NORTON C. MEEKER.

Deposition of Henry Wells, taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office, in the City of Cleveland, on the second day of June, A. D. 1854.

Dep'n of Henry Wells.

Questions put by Messrs. Emmons & Newbery.

1st. State your age, residence, and occupation.

Ans. I am thirty-six years of age; I reside in Wisconsin; am a farmer.

2. Do you remember the collision between the Ogdensburgh and Atlantic?

Ans. I do.

3. On what vessel were you, and in what capacity, at that time? When did you ship on her, how long did you remain on her, and in what capacity?

Ans. I was on the Ogdensburgh, in the capacity of a deck hand. I shipped on her the spring before the collision, and remained on her the whole season. About a week after the collision I was made watchman.

4. On the night of the collision, what time did you go to her, and what awakened you?

Ans. About one o'clock; the force of the collision wakened me.

5. Where did you go then, and when and where did you first see Captain Richardson, and what did he say to the wheelsman?

Ans. I went immediately on to the promenade deck forward, and there saw Captain Richardson by the pilot house. He asked the wheelsman which way the vessel was heading, and which way the wheel stood.

6. What orders did you hear Capt. Richardson give to McGrain, the porter of your boat, and in what tone of voice were they given?

Ans. He ordered McGrain to take the lamp (pointing to the signal lamp) down and trim it. He spoke rather sharp to him.

7. At this time or previous had you noticed how those lamps were burning? and how far, as they were then burning, on an ordinary night should you suppose they could be seen?

Ans. I had noticed they were getting dim. Before the collision I noticed them, and saw they were getting dim, as they sometimes do. They could be seen, as they were at the time of the collision, not over the length of the vessel.

8. After the order to McGrain, what did McGrain then do?

Ans. He took the lamp down and trimmed it, pushed the wick up, and knocked the crust off it.

9. How often were you on deck during the evening, and what did you notice as to the burning of the signal lights about twelve o'clock?

Ans. I was on deck several times, backwards and forwards; can't say how many times. I noticed they were getting rather dull, as they usually did about that time.

10. During the whole evening, until you went to bed, did you see Capt. Richardson on deck at all?

Ans. No sir; I did not see him at all.

11. What had you noticed as to these signal lamps on other nights previous to the collision?

Ans. I had noticed that they burned badly, and I had known them to go out sometimes.

12. What have you heard said by the crew of the Ogdensburgh, before the collision, of these lights, and on what account were the lamps at the cross-trees changed, and if changed, when, after the collision?

Ans. I have heard the engineers complain that the lamps burned badly. Yes, sir, the lamps at the cross-trees were changed at Oswego. New lamps were bought for the cross-trees.

13. State what you had noticed as to the signal lights after you became watchman, when they were lighted at dark, and not trimmed until about midnight.

Ans. I had noticed they burnt badly all along.

14. What kind of lamps were at the cross-tress, and how were they burning at the time of collision?

Ans. Common hand lamps. They were burning badly at the time, almost out.

15. As they were then burning, how far should you suppose they could be seen by an approaching vessel?

Ans. Don't know exactly, perhaps a half a mile.

16. What have you noticed as to the burning of the lights at the cross-trees about midnight, when not trimmed?

Ans. They usually got very dull, and often went out about two o'clock.

17. Who went into the small boat to examine the damages?

Ans. The two mates and the wheelsman.

18. After they returned, and while on the deck of the Ogdensburgh, when others of the crew of the Ogdensburgh were around, did you hear Capt. Richardson ask McNett any question, and if so, what, and what did McNett reply, and did Captain Richardson then reply, and what did McNett reply?

Ans. Yes, sir. He asked McNett if he saw the red light of that boat, and McNett said he did. Capt. Richardson said, "Why the devil didn't you port, then?" McNett said I thought I was doing my duty to keep my course.

19. Did you hear the second engineer say anything about seeing the lights?

Ans. Yes, sir. When I asked how the accident happened, and if he did not see the lights of the steamer, he said he did; he said he saw the lights long since; he said his vessel was on her course, and the other vessel was off her course.

(Objected to by Judge Spalding.)

20. Did he say anything about what lights he saw?

Ans. He said he saw the red lights of the boat.

21. Do you whether the signal light was removed after collision, and where was it put?

Ans. It was removed, and put up six feet higher.

Cross-examined by Mr. Spalding.

Ques. This is not the first time that you have heard these questions put that the gentlemen have read to you, is it?

Ans. I have heard them put before by Mr. Gardner, in Detroit. The whole of these questions were not asked; the substance of them I was asked. Mr. Gardener did not have them in writing; Mr. Newberry, the attorney, read them to me.

Ques. Who came to Wisconsin after you to come down on this business?

Ans. Mr. McPherson; he came and asked me to come to Detroit. I came down with him. Since then, I have been on board the Collins steamboat; was placed there by Mr. Gardner.

Ques. Was this Mr. McPherson to whom you alluded the same McPherson who was on board the propeller Ogdensburgh as second mate at the time of the collision?.

Ans. Yes, sir, he was the same man.

Ques. What did Mr. McPherson propose to give you, or how did he say your expenses should be paid, if you would come to Detroit?

Ans. He first asked me if I would come and sail with him this summer. I said I did not know, that I should work somewhere, and asked him when he wanted me. He said right away. He said they had several of the old hands, which I understood to mean the hands of the Ogdensburgh, and that they would pay me well, and that he wished I would come along; I concluded to come, and did come with him.

Ques. Is McPherson in Ward's employ?

Ans. I don't know.

Ques. Have you found your way on board of McPherson's vessel yet?

Ans. I asked him, on the way down to Detroit, how he happened to come for me; he said it was about the collision suit; that they wanted me as a witness. He did not say what vessel he was going to put me on to. After I got to Detroit, and had made my statement, Mr. Gardner asked me if I wanted to go back. I told him no, that I would accept of a birth. He then said they had a number of steamboats, and put on to the Collins.

Ques. When did you first talk with Mr. Ward about this matter?

Ans. I don't know him, and never talked with him.

Ques. When did you last see McPherson, and where?

Ans. I saw him to-day, on board the steamer Cleveland, after we got in from Detroit.

Ques. Did you hear the questions read which you have answered here to-day more than once in Detroit?

Ans. No, sir.

Ques. Was you present at any time in Detroit when Gardner talked with Welch or Meeker on the subject of the collision?

Ans. No, sir.

Ques. Where does the Collins run?

Ans. From Cleveland to the Saut. I have made two trips on her since I left home.

Ques. Did you, and Welch, and Meeker, all come down on the Cleveland from Detroit?

Ans. Yes, sir.

Ques. How much do you get a month on the Collins?

Ans. Twenty-five dollars.

Ques. Who paid your expenses down from Wisconsin to Detroit?

Ans. Mr. McPherson.

Re-examined by Mr. Emmonds.

Ques. Did you get more than other hands acting in the same capacity?

Ans. Yes, sir. I thought my time was worth more.

Ques. How much more?

Ans. I told him I should expect more than I got on the Ogdensburgh, because I did not come on purpose to sail. He asked me what I got on the Ogdensburgh. I told him twenty dollars. He asked me if twenty-five would do, and I said that I thought that was about right. I did not know, nor do I now, what other men acting in the same capacity are getting.

The witness on hearing the deposition read over, explains and says: that in answer to the first question of the re-examination, he does not mean to say that he got more than the other hands on the boat, but that he got more than he got on the Ogdensburgh. I did not understand the question when it was first asked.

HENRY WELLS.

Deposition of John Delany, taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the 30th day of June, A. D. 1854.

Dep'n of Jno. Delany.

Questions by Mr. Gardner, agent for plaintiffs.

1 Ques. State your age and occupation.

Ans. I am 37 years of age. I am a farmer, and reside in Clayton, Jefferson County, New York. In 1852, I was fireman on the propeller Ogdensburgh at the time of her collision with the steamboat Atlantic, and was on duty at the time of the collision. That was my second season on the lake.

2 Ques. Where was you just previous to the collision?

Ans. I had come out of the hole, and was standing on the larboard

side of the boat on deck. I stood there but a very short time after coming out of the hole.

3 Ques. What first attracted your attention?

Ans. I first heard a bell, I think the bell of the engine.

4 Ques. What did you do next?

Ans. I looked out the larboard side of the gangway but saw nothing.

5 Ques. What did you do next?

Ans. I went immediately to the starboard side and looked out of the starboard gangway.

6 Ques. Did you hear any observations made by the engineer as you passed over?

Ans. I did.

7 Ques. What did you hear him say?

(Objected to by Judge Spalding.)

Ans. I heard him say that the bell was not rung right, and that he did not know what to do.

8 Ques. What was the engineer doing when you passed over?

Ans. He was standing at the engine.

9 Ques. When you came upon the starboard side of the propeller, what did you first discover?

Ans. A light.

10 Ques. About how far off was that light?

Ans. About a mile.

11 Ques. What did you think it was when you first saw it?

Ans. I thought it was a light-house.

12 Ques. What did you think it was immediately after?

Ans. I thought it was a steamboat.

13 Ques. What did you see that caused you to think it a steamboat?

Ans. I saw a red light.

14 Ques. How far off was the Atlantic, when you first discovered her hull?

Ans. Three or four times her length off.

15 Ques. How far off should you think the Atlantic was, when you first saw her red light?

Ans. Between half and three-quarters of a mile.

16 Ques. What did you do when you saw the hull of the steamboat?

Ans. I hollered at the engineer to back the propeller. I hollered a second time, back hard or we are all goners.

17 Ques. About the time you hollered did you hear anything from the engine room?

Ans. No, sir, I did not, as I remember.

18 Ques. After you told the engineer to back her hard, what did you next do?

Ans. I run around to the larboard side of the propeller.

19 Ques. When you got to the larboard side what took place?

Ans. I took hold of the stanchion and looked out, and saw the

bows of the Atlantic coming past the bows of the propeller, and just then she struck us.

20 Ques. How long was it from the time you saw the red light of the Atlantic until the collision?

Ans. From two to three minutes.

21 Ques. Did you know at the time of the collision, or do you know now, what bells should be rung to slow the engine of the propeller?

Ans. I do not.

Cross-examined by R. P. Spalding Esq., Att'y for Def'ts.

Ques. Are you the same John Delany, who gave a deposition in this case, here in Cleveland, the next fall or winter after the collision took place?

Ans. Yes, sir, I am.

Ques. In answering question number eight, of the cross-examination by Mr. Ward's counsel, which is in the following words: Did you see her red or her green lights? Do you now remember what answer you then made?

Ans. I don't remember.

Ques. Do you recollect saying in answer to question No. seven of that cross-examination, that to the best of your knowledge, the steamboat Atlantic was heading straight for the propeller's midships, when you saw her from the starboard gangway?

Ans. I don't remember what I then said, I presume I did say so, and I now say I think she was heading for the propeller's midships.

Ques. When you first saw the steamboat, did she seem to be heading to your midships?

Ans. When I first saw her hull I thought she was.

Ques. Was she wide off on your starboard side when you first saw her red light?

Ans. I can't tell that, sir.

Ques. Are you sure you saw the red light at all?

Ans. I think I am sure I saw it, but to be positive I won't.

Ques. If she was steering for your midships, she would show both her lights to the men on the propeller, would she not?

Ans. I can't tell that. I think I saw a colored light, and I am pretty sure it was the red one.

Ques. After telling the engineer to stop her, or you were all goners, why did you run to the larboard side of the propeller, and take hold of the stanchion?

Ans. I was afraid the steamboat was going to strike the propeller.

Ques. How long since you came from Jefferson County, New York?

Ans. I left there last Friday.

Ques. Who came there after you?

Ans. Mr. Welch came after me.

Ques. Was this Mr. Welch the cook of the Ogdensburgh when you was on board her?

Ans. Yes, he was.

Ques. Who did Mr. Welch say wanted you?

Ans. Mr. Welch told me to come along with him to Detroit.

Ques. What for?

Ans. To testify what I knew between the two parties in this case. He told me he wanted me himself.

Ques. How much money did he say he would pay you?

Ans. He said he would pay me well for my time.

Ques. When you got to Detroit did you talk with Mr. Gardner about the matter?

Ans. I saw him and talked with him.

Ques. How long did you stay in Detroit?

Ans. From Sunday evening, July 9th, until the next Tuesday evening.

Ques. When you gave your deposition before in this case, did you state the facts truly as you understood them at the time they were asked you?

Ans. I stated them as they were asked of me, according as I knew, and according to the truth, as I understood it.

Re-examined by Mr. Gardner.

Ques. When you saw the Atlantic half or three-quarters of a mile off, are you positive you saw one of her colored signal lights?

Ans. I think I am. I am really sure I did. It is so long ago I would not be quite positive.

JOHN DELANY.

Deposition of Ebenezer Waite taken before Johm C. Grannis, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the twenty-ninth day of January, A. D. 1855.

Dep'n of Eb'r Waite.

Questions by Capt. Gardner, agent for libellants.

Ques. Please state your age, residence, and occupation.

Ans. I am thirty years of age, reside in Cleveland, Ohio, am an engineer on board steam vessels.

Ques. In whose employ are you now?

Ans. In the employ of Chamberlain & Crawford. I am first engineer on board the propeller Vermont, now lying in Cleveland harbor.

Ques. How long have you been in their employ in the capacity of engineer?

Ans. Three seasons.

Ques. Are you engaged to sail for them as engineer the coming season?

Ans. I expect to sail for them in that capacity next season. I have made no bargain with them, but they have told me I could have a boat if I wanted one.

Ques. Do you remember the collision between the steamer Atlantic and propeller Ogdensburgh on Lake Erie, in 1852?

Ans. Yes, sir.

Ques. Which boat was you on, and in what capacity?

Ans. I was on the Ogdensburgh at the time of the collision, in the capacity of engineer.

Ques. Are you acquainted with De Grass McNett, who was first mate of the Ogdensburgh, at the time of the collision between her and the steamer Atlantic?

Ans. Yes, sir.

Ques. When did you first become acquainted with him?

Ans. In 1852, at the time he shipped on board the Ogdensburgh.

Ques. Did he ship on board the Ogdensburgh as mate at Oswego, the trip up previous to the collision?

Ans. I am not certain whether he came on board that trip or the trip before, or whether he came in at Oswego or Ogdensburgh.

Ques. State whether or not, you are acquainted with Capt. J. M. Green and Benjamin J. Stone, of Oswego?

Ans. I think I am.

Ques. Did Capt. Green and Benjamin J. Stone come from Oswego to Cleveland with you on the first trip up after McNett shipped as mate?

Ans. I am not certain whether they came up with us that trip. They came up with us one trip. I think McNett was on board at the time they came up.

Ques. Do you remember who took the propeller Ogdensburgh through the Welland Canal, the time that Green and Stone came up?

Ans. I can't say that Green piloted her all of the time that trip through the canal; he did some of the time.

Ques. What order was given you by Capt. Richardson about practising upon the engine bells on the trip up from Oswego to Cleveland, immediately before the collision?

Ans. I don't remember of his giving me any.

Ques. Did Captain Richardson, or any of the officers of the propeller, previous to the collision referred to, tell you or your second engineer that you need not pay any attention to the ringing of the bells, as McNett, the mate, was going to practise upon the bells, or words to that effect?

Ans. None of them told me anything to that effect, but I believe it was done, that is, McNett did practise on the bells. I heard no one tell me or the second engineer in my hearing, anything of that kind that I remember of. McNett practised on the bells on Lake Erie.

Ques. Who was at the engines at the time he was practising on the bells, you or your second engineer?

Ans. I think my second engineer, Lewis Young.

Ques. Did you understand at the time or afterwards that McNett was taking his first lessons upon the bells on board of a steamer?

Ans. I didn't understand that he was taking his first lesson. I understood that he was practising upon the bells.

Ques. Did McNett have charge of the ringing of the engine bells of the propeller, except when they were practising, up to the time just previous to the collision, to your knowledge?

Ans. He stood his regular watch. I don't now recollect of his ringing the bells; for I don't know who rung them.

Ques. Did you have any conversation with Capt. Richardson in regard to McNett's ringing the engine bells on that trip, or previous to the collision?

Ans. I don't remember that I did.

Ques. Did Capt. Richardson at any time previous to the collision say to you that he did not like to trust McNett to ring the bells of the engine, or words to that effect?

Ans. I don't remember that he did.

Ques. What time did your watch commence after leaving Cleveland on the night of the collision?

Ans. Between six and seven o'clock.

Ques. How long did your watch last?

Ans. Until somewheres near half past one.

Ques. During your watch do you remember seeing Ashtabula light?

Ans. I do.

Ques. Do you remember seeing Conneaut light?

Ans. I don't remember whether I saw it or not.

Ques. Did you see or pass any steamboat or boats during your watch referred to?

Ans. Yes sir; I saw two steam vessels. I think they were steamboats.

Ques. About what time did you pass them?

Ans. I should think a little after twelve, or about twelve.

Ques. About how far off do you think you saw those boats when you first made their lights?

Ans. From two to three miles, as I supposed.

Ques. Did you notice their colored signal lights, and how far off did you notice them?

Ans. I could not distinguish one light from another. I saw a light and it looked red, about two or three miles off.

Ques. What first attracted your attention at the time of the collision?

Ans. I was asleep in my berth at the time of the collision. The shock attracted my attention. The first thing I knew I was on the floor.

Ques. Who had charge of the engine at the time of the collision?

Ans. Lewis Young, I suppose.

Ques. Did Lewis Young, your second engineer, say anything to you after the collision about the ringing of the engine bells at the instant of the collision?

Ans. Yes, sir. He said they were not rung right; that he did not understand them. I think he told me so.

Ques. Did Lewis Young on that occasion, or about that time, tell you what alarmed him, and made him stop his engine, instead of the ringing of the bells?

Ans. Yes. He said the fireman called to him, and said there was a steamer running into them. I understood that the ringing of the bells and the hallooing of the fireman at the same time caused him to stop his engine.

Ques. Did Lewis Young, your second engineer, soon after the collision, say anything to you about seeing the steamer Atlantic's lights?

Ans. Yes; he said he saw them.

Ques. Did he tell you what kind of lights he saw?

Ans. He did not.

Ques. Has he told you at any time since the collision that he saw on the steamer Atlantic, when she was approaching the Ogdensburgh just previous to the collision, a large red light?

Ans. I think he has not; he told me that he saw a large light on her, but did not say what it was.

Ques. Did you hear any conversation between Capt. Richardson, the master of the Ogdensburgh, and McNett the mate, soon after the collision, and previous to leaving the place of the collision, or the wreck of the Atlantic?

Ans. I did not hear any conversation directly between them.

Ques. Did you on that occasion hear Capt. Richardson say anything to him in regard to the management of the boat just before the collision?

Ans. I don't recollect any words that he said to him. I heard him say something.

Ques. Did you understand at the time from any language that he used, that he was reprimanding him for not doing as he should have done, or anything to that effect?

Ans. From the appearance I supposed he had; but I did not hear Richardson say anything.

Ques. What did you see that led you to suppose that he had reprimanded him.

Ans. McNett said that if he thought he was the cause of a single person being drowned there, he would jump overboard and drown himself. He was shedding tears at the time.

Ques. Did you understand at the time from what you heard, that Capt. Richardson was finding fault with McNett for not porting his wheel just before the collision?

(Objected to by Judge Spalding.)

Ans. I don't remember of anything being said about porting the wheel. I never formed any opinion what it was for.

Ques. What time did you get to Erie after the collision?

Ans. About 10 o'clock or 11 o'clock in the morning, I suppose. I did not see any timepiece.

Ques. Do you recollect seeing McNett, the mate of the Ogdensburgh, make any drawings with chalk or other articles on the dock or decks of the propeller while lying at Erie, representing the courses of the two boats as they came together.

Ans. I saw him making some such marks, or representing them with something. I understood what it was for. I supposed it was showing the shapes of the vessel. I paid no particular attention to it. I was on the deck of the Ogdensburgh and he was on the dock. I don't know what it was done with, whether with a knife, chalk, or something else.

Ques. Has McNett at any time in your presence made drawings representing the courses of the two boats just previous to the collision?

Ans. I don't remember any other, than what I have said I saw at Erie.

Ques. Did you have a collision, or did you run into a vessel the same season, near Cleveland with the propeller Ogdensburgh?

Ans. I believe we struck a vessel the same season inside the harbor at Cleveland; I think it was after the collision. I am not certain where it was, it was in the bend of the river near Hubly and Hughes' warehouse; there were three vessels, lying abreast.

Ques. Did you have charge of the engine at the time?

Ans. Yes, sir.

Ques. Please describe the working of the engine, and the cause of striking that vessel?

Ans. It was a storm outside, and we were coming in fast, and the Capt. gave the signal to slow and stop and to back. I undertook to back the engine and it wouldn't go back; I tried it two or three times without success; the third time it stopped on the centre; I got it off and got her to backing before she struck the vessel. One cause of her not backing was that there was some sea coming in. The sea extended into the river as high up as the bend, and the engine would not work readily.

Ques. Do you remember meeting the May Flower on Lake Erie since the collision, when you came near having a collision?

Ans. Not with the Ogdensburgh, I met the May Flower this summer with the Vermont.

Ques. What time did you leave Erie after the collision?

Ans. About two or three o'clock the next morning.

Ques. Previous to your leaving did you go in where they had a public meeting about the collision?

Ans. I went to the door where it was, did not go in. I did not see any one of our crew go in. Captain Richardson said he went in.

Ques. Was there an understanding between you and Captain Richardson, after coming from that meeting, that you should run away, or leave Erie, to avoid being arrested?

Ans. Yes, there was.

Ques. State what course you pursued to get away?

Ans. Capt. Richardson and I staid up, and we kept fire up; it had been kept up all day to keep the pumps going. The lights of the propeller had not been lighted.

Ques. Do you know Lewis Young who was second engineer of the Ogdensburgh?

Ans. Yes, sir.

Ques. At the time of the collision referred to, did you consider him a competent man to take charge of an engine?

Ans. Not as first engineer.

Ques. Did you consider him a competent man as second engineer to leave in charge of an engine?

Ans. I did, or I would not have had him.

Ques. Will you state whether you considered him easily confused by fright, or otherwise while at the engine?

Ans. Under some circumstances I should consider him easy confused, under others not. If his life was in danger he would get confused. I have seen him in precarious situations when he was confused, and under others when he was not.

Ques. Have you ever stated in the presence of any person or persons, that you did not consider Lewis Young a competent second engineer, at the time of the collision?

(Objected to by Judge Spalding.)

Ans. I might have said it, and I might not. It strikes me that I have said so.

Ques. Did you state in the presence of Captain Clement and P. Givens, in Capt. E. B. Ward's office in Detroit, that you did not consider him a competent second engineer at the time of the collision?

Ans. I don't know that I know either of the men; I might have said so in the office, I don't remember that I did, or what I said.

Ques. Did you state at the same time and place, that he did not know anything about an engine, or that he did not know more than to stop and start, or words to that effect?

Ans. I think that the first time I took him with me as a fireman, I might have said that.

Ques. Have you stated to Mr. S. Gardner, in this city, within the last twenty-four hours, at your house, in the presence of another person or persons, that Lewis Young, second engineer, told you that he saw the steamboat Atlantic's lights when she was approaching, previous to going to oiling his engine, and that he saw on her a large red light, or words to that effect?

Ans. I told Mr. Gardner that Lewis Young said he saw a large light, and it looked red.

Ques. Did you notice anything in the conduct of McNett during the trip of the collision, or before or after the collision, that went in your judgment to his incompetency as a mate?

Ans. I think not. I am not acquainted with any of his qualities as seaman. I never was.

Ques. Have you at any time previous to the collision on board the Ogdensburgh, or since, seen him, said McNett, standing in the attitude of a deep study for a considerable length of time, and then starting very sudden, like in your judgment one insane?

Ans. I have seen him standing five or ten minutes in deep study and then start and go to work again sudden. I never could make out what it was; I never thought in my own mind that it was insanity.

Ques. What did you think the occasion of it was?

Ans. I don't know.

Ques. Have you ever seen Richardson marking out the courses of the vessel at the time of the collision.

Ans. I have seen him marking out the courses of the boats.

Ques. Did you, or not, state to me in the presence of any person or persons, that McNett and Richardson, or either of them, had marked out and represented frequently in your presence the course of the Ogdensburgh and Atlantic, representing the Ogdensburgh as crossing the bows of the Atlantic, and that you had always had that understanding until a considerable time after the collision, when they turned their tune, and told different stories, or words to that effect?

(Objected to.)

Ans. I told Mr. Gardner that I had the impression that the Atlantic was going directly on her course, and that the Ogdensburgh was running for the Welland Canal, at an angle of about forty degrees with the Atlantic. I showed him with a pencil what I supposed to be the position of the boats. I knew nothing about turning their tune until Mr. Gardner spoke of it himself.

Ques. Did you ever find George Lee, the mate of the Ogdensburgh the same season previous to the collision, while Capt. Richardson was master, asleep on his watch?

(Objected to.)

Ans. I did find him asleep on his watch previous to McNett's coming on board. He preceded McNett as first mate, and was put ashore at Detroit, because he was sick. I think I have caught him asleep more than once.

Ques. Did Lewis Young, your engineer, say to you soon after the collision, and before you got to Erie, that he saw a large light on the Atlantic, as she was approaching the Ogdensburgh, and that it looked red?

Ans. He said so at some time; I don't remember when it was.

Ques. When you left your watch about twelve o'clock at night,

on the night of the collision, how far did you suppose yourself to be down the lake?

Ans. I left my watch about half past one. Then I supposed I was about abreast or past Long Point.

Ques. When you left Cleveland for the Welland Canal, did you run considerable nearer the south shore than your usual course to Gravelly Bay?

Ans. I don't think we did.

Ques. Did you state to Mr. S. Gardner, at your house, within the last twenty-four hours, in the presence of one or more persons, that Captain Richardson told you, on the trip of the collision, that he dare not trust McNett to ring the bells of the engine, or words to that effect?

Ans. I don't remember that I did tell you so.

Ques. Did the officers of the propeller, while at Erie, enter protest? If so, before whom, and what officers of the boat were sworn?

Ans. They did enter a protest, I think; I don't know before who. I was sworn, and Captain Richardson was; McNett, I think, was.

Cross-examined by R. P. Spalding.

Ques. Are you the same Ebenezer Waite who gave a deposition in this case at Cleveland during the winter next after the collision?

Ans. I am.

EBENEZER WAITE.

Deposition of W. B. Ring, taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the 21st day of September, A. D. 1854.

Dep'n of W. B. Ring.

Questions by Capt. Gardner, Agent, &c.

1st. What is your age, residence, and occupation?

Ans. I am fifty years of age. I am now travelling with paintings as an exhibition.

2d. Do you remember the collision of the steamboat Atlantic and propeller Ogdensburgh, in August, 1852?

Ans. I do.

3d. Which vessel was you on board of, and in what capacity, and where were you going?

Ans. I was then on board the propeller Ogdensburgh, in the capacity of a passenger. I was going to Ogdensburgh, New York.

4th. What room was occupied by you, and where was it situated?

Ans. Room No. 1, on the starboard side.

5th. Where were you during the fore part of the evening, and who with, and what was you engaged in, and for how long?

Ans. I was in the cabin or saloon; myself and wife, two young ladies, Captain Richardson, and a young man from Manchester, N. H.

We played euchre until about ten o'clock in the evening; Capt. Richardson played with us.

6th. At what time did you retire that night?

Ans. As near as I can remember we retired about 12 o'clock.

7th. What first attracted your attention to the approaching steamboat?

Ans. My wife first called my attention to the Atlantic, saying that a boat was going to run us down. Just at that moment the collision took place.

8th. Where did you go immediately after the collision, and where did you first see Capt. Richardson after the collision?

Ans. I went first out on to the forward part of the deck, near the pilot house, and found Capt. Richardson there.

9th. What expression did you hear him use?

Ans. He said something to McNett, I don't remember what.

10th. Where did you then go, and what was done to lights while you were there, if anything?

Ans. The moment I got on the forward deck Capt. Richardson rung the bell for the other boat to stop. I then went into the cabin and got what little money I had, to secure that. There were a couple of lights trimmed in the cabin, but they were not the signal lamps.

11th. What was the condition of the signal colored lights when you came on deck after the collision, and how far should you think they could be seen?

Ans. The lamps were burning very dim. I am not much of a judge of lamps burning at a distance. They could be seen perhaps a quarter of a mile, perhaps less. I don't consider myself a competent judge as to how far lights can be seen. Those lights were burning very dim; I refer now to the signal lamps. I should consider that a quarter of a mile was the extent of the distance they could be seen.

12th. What was their condition when you went to bed at 12 o'clock, and how far should you think they could be seen, and, as a prudent man, if you had wanted them to be seen by approaching vessels, what would you have had done with them?

Ans. They had been burning about four hours, and they were beginning to burn dimly. It is almost impossible for me to tell; I should think they could be seen from a quarter to a half a mile. I should have had them trimmed; I mean I should have the crust got off the wick, and, if necessary, I should have put in more oil.

13th. What was the condition of the signal lamps when you came on deck by the pilot-house the second time after the collision, and what could you then see by their reflection that you could not see before?

Ans. When I went on deck the second or third time, they were burning better. I could see that the deck was out of order, that the larboard side was lower than the starboard. I was just passing,

did not stay long, but stayed long enough to see what the condition of the deck was.

14th. What conversation did you hear between Capt. Richardson and McNett, the mate, immediately after McNett came on deck after examining the injury to the propeller?

Ans. The exact terms I can't exactly make use of. It was, "Why didn't you port your helm?" or something like it. He asked McNett if he didn't see the lights; McNett said he did; I think he said he saw the red light. He might have said something more, but I don't remember it.

15th. While at Erie, after the collision, while on the dock near the propeller, what did you see McNett, the mate, doing with a knife, or chalk, or something?

Ans. I saw him on the dock talking to a knot of people, as we sometimes call it. I saw him demonstrating something. I supposed he was showing them the course of the vessel. I did not see any chalk. He had something in his hand (I don't know what it was) describing what had happened. I did not go near enough to see any marks.

16th. While on board the Ogdensburgh after leaving Erie, after the coroner's inquest there, where McNett was sworn, and while the Ogdensburgh was on her passage to the Welland Canal, did you have a conversation with McNett, the mate, as to what he swore at Erie before said jury? If so, what was it?

Ans. I had some conversation with him about it; I can't possibly state the whole of it. He told me that they asked him if he had ported his wheel five minutes before, if the accident would have happened; he said he told them it would not have happened; then I said to him, "You committed yourself then;" he said "he did." I asked him how he was going to get over it; his only reply was, that he did not know, or that he would see, or something like it.

A. Under No. 16.

Did McNett say anything to you about being asked by the coroner or the coroner's jury, about seeing the lights of the steamer? if so, what was his reply?

Ans. I don't remember his saying anything about it.

17th. After leaving Cleveland on said propeller, the day preceding the collision, in the afternoon, did you have a conversation with McNett, the mate, in reference to Ward's boat, &c.? if so, what was it?

Ans. I did. We first begun talking about going to California; he then began talking about the Wards. He said the Wards wanted to run all the propellers off the lake, that they wanted to have the lake all to themselves. He said, as near as I can give his language, "that he would run every God damned steamer of theirs down before they should run off the propellers.

18th. What order as to the courses of the propeller, did you hear

Capt. Richardson give the officer of the deck, just before you went to bed?

Ans. My opinion is, that it was about altering the course a point or a half a point north of the course we were then steering.

19th. After the collision, what did you first hear from or near the Atlantic, and was this before or after the propeller Ogdensburgh started to go towards the Atlantic, and did you communicate this to Capt. Richardson?

Ans. The holloring of the passengers. It was before the propeller started. It was just as we had got ready to start for the Welland Canal. I told Capt. Richardson that there was a cry of distress from the steamer. He said he thought not. He immediately heard it, and put for the wreck.

Cross-examined by R. P. Spalding, Esq.

Ques. What paintings are you exhibiting?

Ans. The Adam and Eve paintings, by Dubufe.

Ques. How long have you been engaged in that business?

Ans. I put them up twenty-two years ago, in New York. Out of that time they have been in England eleven years. I have exhibited them only part of the time, both in this country and England.

Ques. How far, in your judgment, did the Atlantic run after the collision to the place where she finally sunk?

Ans. I could not say. I should have to judge as you would, from the cry of the passengers; the cry was faint at first.

Ques. Did you not run with the propeller some twenty-five or thirty minutes before you reached the wreck of the Atlantic?

Ans. I should not think we were as long getting to her as that, though I cannot tell exactly how long it took. I only took notice of the time once, that was at the time of the collision. It was then half past two o'clock by my watch; any other estimate of time, except that, must be guess work.

Ques. How far off was the Atlantic when you first heard the noise, judging from the faintness of the sound, according to the best of your judgment and belief?

Ans. I can't tell. It was a great distance. It is impossible for me to tell with any satisfaction to myself. It would be all guess work.

Ques. Can you tell within one or two miles?

Ans. The question is put to me much like the other. I can't tell with any certainty.

Ques. Can you tell within five miles, how far off the Atlantic was when she sunk, from the place of collision?

Ans. I can't say with certainty, with such latitude as that. I should say from two to six miles. I don't know what distance it would be from where the accident was to where the steamer sunk, so that the cries of the passengers would be faintly heard. There were near three hundred of them shrieking as loud as they could.

I know that water is a conductor of sound, but I don't know how much further it can be heard on water than on land.

Ques. You have said your state-room, occupied by yourself and Mrs. Ring, was number one on the starboard side of the Ogdensburgh, and that your wife called your attention to the fact that a steamer was approaching, just before the collision. I now wish to know about how far back from the bow of the propeller that state-room was situated, and whether it had a window through which you could look out upon the water?

Ans. I think about twenty-five feet from the stem; I have to guess at it. The room had a window looking out upon the lake. I think it was dropped down about five or six inches to let in the air.

Ques. Was the language of your wife, just before the collision, "There's a steamboat running into us?"

Ans. That is as near the expression as possible.

Ques. Did you take notice of the globe lamps burning at the propeller's cross-trees, at the top of the masts, before or after the collision, or both?

Ans. I did take notice of them directly after the collision; they were burning dimly.

Ques. Do you not know that those lights continued to burn until the vessel approached the harbor at Erie the next morning?

Ans. One of them did burn until we got to Erie, which was about 7 or 8 o'clock in the morning.

Ques. Of what country are you a native?

Ans. I was born in London, Eng. I have been in this country twenty-two years, and have been naturalized some fifteen years.

Ques. Did you write the letter here exhibited in print, marked Exhibit "A," and signed with the name of the commissioner, September 20th, 1854, which letter bears date St. Catherines, August 23d, 1852, and signed W. B. Ring, agent for Dubufe's Adam and Eve, written on the subject of the collision between the Atlantic and Ogdensburgh? and if yea, does that letter, now here read to you, and made part of your deposition as an exhibit, contain a truthful narration of the facts and circumstances, so far as you detailed them at that time. (Question and answer and exhibit objected to by Capt. Gardner.)

Ans. I did write the letter, and it contains, so far as it goes, a truthful narration of the events as they occurred, and the letter gives a better idea of the distance the boats were apart than anything I have said.

Ques. How long have you known Mr. Gardner, the agent of Mr. Ward, who is now present, attending to the taking of this deposition?

Ans. I think about three weeks.

Ques. Where did you then see him, and how many interviews have you had with him since?

Ans. I saw him first in Detroit. I saw him the second time in

Detroit, and have seen him here to-day. These are the only interviews I have had with him.

Ques. Have these written interrogatories, presented here to-day by Mr. Gardner, or others of a similar import, been read to you or in your hearing at any time before they were read here to-day?

Ans. The first time I ever saw these questions to know what they were was here to-day. He had papers once before to-day when I saw him, but I did not know what they were. He asked me questions, but did not read any to me.

Ques. Were any questions asked you at Detroit upon the subject of your testimony? if so, by whom?

Ans. Yes. Mr. Gardner asked me several questions in a general way. I think Capt. Blodgett was by at the time. Mr. Gardner asked me a few questions before Mr. Emmonds. Mr. Emmonds asked me none.

Ques. After the collision, did you see the steamer Atlantic as she was moving away from the propeller?

Ans. I did not, but could hear the noise of her in the distance.

Ques. At the time you first heard the cries of distress, could you see the Atlantic?

Ans. No, sir.

Re-examined by Capt. Gardner.

Ques. You say that you measured the distance from the voices you heard on the Atlantic; how long was it from the time you first heard the faint cries of the passengers until there was a general shriek which was heard by Capt. Richardson?

Ans. Capt. Richardson heard it directly after I did.

Ques. Immediately after you first heard the cries of the passengers, or in the space of a half a minute, were there voices faintly or plainly to be heard?

Ans. They were faint at first, but as we progressed to the vessel, they became louder.

Ques. Did you see Capt. Petty when he was taken from the small boat on board the propeller?

Ans. I did not see him to notice him until after we started for Erie; then I noticed him particularly.

Examination continued to Sept. 22d, 1854.

Ques. Are the alleged facts in your letter, called Exhibit "A," attached to your deposition, within your own knowledge, or furnished by information from others?

Ans. Some of them were within my own knowledge, and some not.

Ques. Will you look at the letter and state what facts therein are or were from or within your own knowledge at the time you wrote it?

Ans. I know I was a passenger on the Ogdensburgh at the time

of the collision. I did not see all the heart-rending scenes that occurred. All is an extensive term. When I say all I mean nearly all. I know that we left Cleveland on the day named in that letter, and that the weather was pleasant, and that nothing of moment occurred until about half past two o'clock. What is said in respect to the striking of our boat by the Atlantic is within my knowledge; also with regard to the violence of the shock, and the throwing of people from their berths, is within my knowledge, and true, so far as relates to myself and wife. It shook myself and wife out of our berths; and we were in separate berths, one above the other. The speed of the Atlantic is there stated correctly. The statements therein contained, with regard to my going on deck, is correct and within my knowledge. We might not have been the first on deck. I saw no others. I saw the boats lowered. With regard to the pumps, I was informed by others. I witnessed the Atlantic progressing, and heard the ringing of the alarm bell of the propeller. I saw that the Atlantic did not stop. What is said about my being astonished that the Atlantic took no notice of us is true, and I told Capt. Richardson so, as stated in the letter. What is said about keeping the leakage under, was from information derived from others. I heard pumps going. What is said as to the cries of the passengers is true, and within my knowledge. Also what is stated as to the conduct of Capt. Richardson in saving the passengers. As to the statements with regard to Capt. Petty, I saw him helped out of the small boat. I did not see him again until we started from the wreck for Erie. I was told that it was Capt. Petty that was helped out of the small boat. What is stated about his promenading the deck of the propeller after we left the wreck for Erie, being on the decks of the Sultana and Clinton, and on the dock after we landed at Erie (which was the last I saw of him), and about his not appearing to be exceedingly hurt, I saw, and these statements are true. As to the other statements regarding Captain Petty, my information was derived from others. I saw the dead body of the girl picked up. As to the conversation between Capts. Richardson and Petty, on the subject of the body of the girl, my information was derived from others. Regarding the balance of the letter, it contains an expression of my opinions and sentiments at the time it was written.

Ques. When was you first spoken or written to about being a witness in this suit?

Ans. The first letter that I received, saying that I might be called as a witness in this suit, was rec'd at Hagerstown, Maryland. It was the fall after the collision. It might have been the winter after in January or February. I think the letter was written and signed by Mr. Chamberlain, one of the defendants in this suit.

Ques. When was the next time?

Ans. About two weeks ago, when I was at Oswego, in the State

of New York. That letter was written by Mr. Chamberlain, one of the defendants.

Ques. What was the subject matter of that letter, so far as relates to this suit?

Ans. He requested me in the letter to come to Cleveland, to give in my testimony in the case; he said that he would pay my expenses for so doing.

Ques. Did you come then?

Ans. No, I waited until Capt. Richardson came to Oswego with a propeller.

Ques. Are these two letters mentioned all the letters you remember having received from Mr. Chamberlain or his attorneys or agents?

Ans. I received one or two letters from Mr. Harris, the clerk of the Ogdensburgh, with reference to when the propeller would arrive at Oswego.

Ques. Was there anything said in Mr. Chamberlain's letter received by you at Oswego, about transporting your goods or boxes, or giving you a free pass upon his propellers during the season, with your goods and boxes, or anything said about paying you for your time?

Ans. Something was said about taking my boxes or exhibition free. He gave me a free pass for myself and boxes during the season. I am not positive whether that was in the letter or not.

Ques. Did you come to Cleveland by reason of the request made in that letter?

Ans. Yes, sir.

Ques. Did you have a conversation with Mr. Chamberlain after you arrived here? if so, what was it so far as relates to your being a witness in this suit?

Ans. Yes. I told him that I thought my testimony in the matter would be more in favor of Mr. Ward than in his favor, and he declined taking my testimony at present.

Ques. Was anything said about telegraphing Capt. Ward or his agents to come and cross-examine, as they would take your testimony in this suit?

Ans. Mr. Chamberlain told me that they had telegraphed to Detroit to have them come down and take my deposition. Afterwards went to countermand it, and found that the wires were down. Mr. Chamberlain gave me no reason why he countermanded the telegraph, except that he had concluded not to take my deposition at present.

Ques. Has Mr. Chamberlain, at any time since you arrived at Cleveland, said anything respecting Capt. Ward's taking your testimony in this suit?

Ans. He has said that if he wished to take it he could.

Ques. Up to the time that you informed Mr. Chamberlain that you thought your testimony would be more in favor of Capt. Ward than

of him, had you seen or talked with Capt. Ward or either of his agents or attorneys with regard to your being a witness in this suit?

Ans. No, sir.

Ques. Did Mr. Chamberlain pay you for your time and expenses in coming to Cleveland to testify in this suit?

Ans. He paid me my expenses as he had proposed. He paid me nothing more. What I mean is, that he paid my board and paid me for my loss of time.

Ques. How much did he pay you a day for your loss of time?

Ans. I cannot tell exactly. He paid me what I considered a fair compensation for my loss of time, and just as I expected. Since I came to Cleveland I have travelled on Mr. Ward's boats to Detroit and back free.

W. B. RING.

Exhibit A, referred to and made part of the foregoing deposition of W. B. Ring, as follows, to wit:—

Exhibit A.

Statement of Mr. Ring.

ST. CATHARINES, *August* 23, 1852.

MR. EDITOR: Having read several incorrect and contradictory statements, in the Buffalo papers, in reference to the late melancholy catastrophe on Lake Erie, I deem it a duty I owe to the cause of truth, and the public, that those facts which came under my observation should be stated, in order to prevent any misunderstanding which may arise from erroneous reports on the subject—having been a passenger on the propeller Ogdensburgh, and an eye-witness to all that passed on that truly distressing and heart-rending scene.

We left Cleveland on Thursday, August 19th, about noon. The weather was pleasant, and nothing occurred worthy of notice till about half past two o'clock on Friday morning, when the ill-fated steamer Atlantic struck us a tremendous blow on the starboard bow, carrying away the whole of the cut-water and stem-post, rending it completely into slivers. The shock was so violent that many were thrown from their berths. The Atlantic still kept on her headway without any diminution of speed. Next to Capt. Richardson, I was the first person on the forward deck, and assisted him to examine the hold of the vessel, to ascertain the extent of our leakage—meantime the boats were lowered to examine the outside of her bows. Finding her beginning to leak, three pumps were instantly set to work. While all this was going on, which occupied some time, the Atlantic was progressing with full press of steam, and, notwithstanding Capt. Richardson rung the bell for assistance the moment of the collision, no notice whatever was taken of it by the Atlantic. I was perfectly astounded at such neglectful conduct, and twice or three times expressed my astonishment to Capt. Richardson at the wanton neglect

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in not standing by us, at least to ascertain the extent of the injury done to us. After satisfying ourselves that the leakage might probably be kept under by the incessant working of three pumps, we were about to proceed on our course when the first cry of distress faintly reached our ears. So great was the distance the Atlantic had proceeded after she struck us, that the united voices of the passengers crying for help were scarcely audible. Capt. Richardson instantly put back, and although in a leaky condition, and still doubtful whether we should reach the land ourselves, and put forth the most praiseworthy and untiring energies to rescue every individual, both in the water and on the wreck. Nor did Capt. R. leave the fatal spot till he was perfectly satisfied he had secured every individual. Three times we encircled the wreck before we left it. Many truthful incidents might be related touching this awful calamity, but it is sufficient for me at present to state the leading facts relative to this sad event. The statement, in one of the Buffalo papers, that Capt. Petty was taken out of the water, after swimming half a mile on a board, is utterly false. Capt. P. was not in the water at any time. He got into his own boat off the wreck, and was helped out of it by Capt. Richardson's first mate on the stern quarter, but not until he (the first mate) had helped a poor fellow who was struggling in the water close to her bows, without rope or anything to support him in the water, for which praiseworthy assistance Capt. P. spoke very harshly to the first mate in not helping him first, altho' he was safely in his own boat, and in no danger. Capt. Petty was the second man taken on board the propeller, instead of the last, as is usual in most cases of this kind. I believe it is a standing rule among seafaring men, that the captain is the last man to leave his own vessel, at any rate captains never leave helpless females on the wreck to assist themselves in the best way they can as Capt. P. did, regarding his own safety before that of his passengers. I perceive it stated that he is under the care of physicians in Buffalo, from the injuries he received. He certainly did not appear to me to be so exceedingly hurt. He promenaded the deck of the propeller during the whole time he was on board, and was first, or nearly so, on the hurricane deck of the Sultana, in close conversation with the captain of the vessel. He showed the same activity on the Clinton, and also on the landing at Erie, where some of the passengers were landed. Most of them were put on board the Sultana, as soon as she came alongside. One dead body was picked up, a girl about 12 years of age. Capt. R. communicated to Capt. P. the fact of his having the body on board, but he did not deign to notice it any more than he did the bell of the propeller for assistance. We certainly should all have been consigned to a watery grave if the propeller had sunk as his own vessel had done, for any help we might have obtained from him. Much more might be said in reference to this dreadful event, but the cries of distress are still ringing in my ears, and some time must elapse ere

they can be partially obliterated. I have often read of distressing scenes like the one in question, but language cannot describe it, nor can it be realized in all its horrors, unless seen as I had the misfortune to see in company with many others. In conclusion, I have only to say, in writing the above, I have been instigated to do so from no other motive than a regard to truth. I am aware that many typographical errors will occur in the hurry to commit to print the unwelcome news of the disaster, but misstatements such as I have read, are calculated to lead the public mind astray, without any means in their power of controverting them. This, and this alone, has induced me to venture my own statement of this occurrence, and though destitute of any merit as to its dictation, it has the truth for its support.

Yours respectfully,

W. B. RING,
Agent for Dubufe's Adam and Eve.

Deposition of Mrs. K. Ring, taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the 22d day of September, A. D. 1854.

Dep'n of Mrs. K. Ring.

Questions by Capt. Gardner.

1st. In what way are you related to W. B. Ring?

Ans. I am the wife of W. B. Ring.

2d. Do you remember the collision of the steamboat Atlantic and propeller Ogdensburgh in August, 1852?

Ans. I do.

3d. Which vessel was you on board of, and in what capacity, and where were you going?

Ans. I was on board the propeller Ogdensburgh as a passenger, and was going to Ogdensburgh.

4th. What room was occupied by you, and where was it situated?

Ans. No. 1. On the starboard side of the propeller, on the promenade deck.

5th. Where were you during the fore part of the evening, and who with, and what was you engaged in, and for how long?

Ans. I was in the cabin, the fore part of the evening, with my husband, Capt. Richardson, Mr. Harris, and two young ladies; we were attempting to play euchre; I knew nothing about the game; we commenced after candlelight, and played until 10 or 11 o'clock. Capt. Richardson and Mr. Harris were playing euchre with us.

6th. At what time did you retire that night?

Ans. I suppose between 11 and 12 o'clock: before my husband did.

7th. What first attracted your attention to the approaching steamboat?

Ans. The lights of the Atlantic. I was awake; don't know from

what cause. Saw the red light of the steamer through the window of the state room, through the glass. The window was closed where I was. I was in the middle berth, my husband was in the upper one, and my little boy was below. I do not know whether the window where my husband was, was closed or not.

8th. How far from you was the Atlantic when you first discovered her red light?

Ans. I can't tell very well; it might have been a mile, perhaps two miles. I should judge that I saw the red light five or six minutes before the collision.

9th. What did you say to your husband, if anything, about seeing the steamboat or her lights, and about how far off was she when you spoke to him about it?

Ans. I said to him, here is a steamboat coming; we are going to be run into, and instantly the collision took place, and I was thrown from my berth. I did not speak to Mr. Ring when I first saw the light, nor until I supposed we were going to be run into.

10th. Where did you go immediately after the collision?

Ans. I went on deck on the forward part of the boat. I saw Capt. Richardson on the forward part of the boat with my husband.

11th. Where did you then go, and what was done to lights while you was there, if anything?

Ans. I kept on the fore part of the deck of the boat for some time. The next place I went to was back into the cabin. Two white lights (hand lamps) were trimmed in the cabin while I was there.

12th. What was the condition of the signal colored lights when you came on deck after the collision, and how far should you think they could be seen?

Ans. They were burning rather dimly. I can't say how far they could be seen.

13th. What conversation did you hear between Capt. Richardson and McNett, the mate, immediately after McNett came on deck after examining the injury to the propeller?

Ans. Capt. Richardson said to McNett, "What have you done," or "what has been done?" He said something to him about porting his wheel. I think he said, "Why didn't you port your wheel?" I don't remember the mate's reply.

14th. While at Erie, after the collision, on the dock near the propeller, what did you see McNett, the mate, doing with a knife, or chalk, or something?

Ans. I saw him marking on the dock with a knife the way of the collision, as I supposed. He was explaining it to a large crowd of people who were standing around, as I supposed. I was standing on the deck of the boat, and could not hear what was said.

15th. While on board the Ogdensburgh after leaving Erie, after the coroner's inquest there, when McNett, the mate, was sworn and while the Ogdensburgh was on her passage to the Welland Canal,

did you have or hear a conversation between McNett, the mate of the Ogdensburgh, and Mr. Ring, your husband, as to what McNett swore to at Erie before said jury? if so, what was it?

Ans. I heard a conversation between them. McNett told my husband that they were asking him at the inquest if he had ported his wheel five minutes sooner if the collision would have taken place. He said he answered no. My husband said something like this, "You have committed yourself." McNett replied to him, "I suppose I have."

16th. After leaving Cleveland on said propeller, the day before the collision, in the afternoon, did you have or hear a conversation with or between McNett, the mate of the Ogdensburgh, and Mr. Ring, your husband, with reference to Ward's boats, if so, what was it?

Ans. I heard him say that the Wards were determined to run all the propellers off the lake. McNett said in language not very proper for me to use, "that he would run every God damn boat of the Wards down before they should do it."

Cross-examined by Judge Spalding.

Ques. At what time in the afternoon or evening did you hear the conversation in regard to the running down the boats sooner than that Ward's boats should run the propellers off the lake?

Ans. I cannot say positively, it was in the after part of the day, before dark.

Ques. In what part of the boat did it take place, and what persons were present at the time of the conversation?

Ans. It was on the deck of the boat. I don't remember whether there was any body present but my husband and myself and McNett; others might have been present.

Ques. What gave rise to this conversation?

Ans. I can't say; we were talking about California at first, and afterwards this conversation was had.

Ques. Were any of Mr. Ward's vessels or boats in sight of you at the time, and if so, what ones?

Ans. I think there was one in sight at the time, but don't know what one.

Ques. Was it a sail vessel, a steamboat, or a propeller?

Ans. I suppose it was a steamboat.

Ques. Do you know the name of the boat, or which way it was running?

Ans. No, sir.

Ques. Did the appearance of the steamboat give rise to the conversation?

Ans. I don't know whether it did or not.

Ques. What was the appearance of Mr. McNett at the time, was he angry, or in good humor?

Ans. He was not angry, it appeared to be his natural way of talking.

Ques. You have said your room was on the starboard side of the propeller; by starboard side do you mean the right hand side looking toward the bows?

Ans. Yes, sir.

Ques. In the state room that you occupied, how were the berths made up, with the head or pillow towards the forward part of the boat or towards the stern?

Ans. The head was towards the forward part, the feet towards the stern.

Ques. As you lay in your berth when you discovered the light of the steamboat through the glass window, was your head towards the forward part of the boat?

Ans. I lay with my head towards the bows and my feet towards the stern part of the boat.

Ques. Was you laying in that position looking out of the window of your state room when you first discovered the light of the steamer, and did you continue in that position until you told your husband a steamboat was running into you?

Ans. I was lying in that position resting on my left elbow, with my head on my hand looking out of the window.

Ques. When you spoke to your husband, did you see the hull of the steamboat?

Ans. Yes, sir.

Ques. Did she then appear to be heading right for the propeller?

Ans. She appeared to me to bearing down upon the propeller.

Ques. Was you alarmed at the time you cried out to your husband, and if so, for what reason?

Ans. Yes, sir, very much; because I supposed she was running into us.

Ques. Was you quite wide awake at that time, and how long had you been thus awake?

Ans. I was wide awake, and had been so at least ten minutes. I was awake before I first saw the steamboat or her lights.

Ques. Had you heard any movements about the propeller, or any noises such as would arise from the moving of the bell wires, the ringing of bells in the engine room, the rattling of wheel chains, or the tramping of feet upon the deck, between the time you found yourself awake, and the moment of the collision?

Ans. No, sir.

Ques. Did you hear any voices upon the deck, calling out, just at the moment of the collision?

Ans. No, sir.

Ques. Were lights burning in the cabin when you first went out of your state-room.

Ans. Yes, sir; one lamp.

Ques. About how far was your state-room door back from the

bows of the vessel towards the stern? Give the distance, as near as you can judge, in feet.

Ans. I can't say. I should think quite twenty or thirty feet. I can't pretend to be accurate.

Ques. Are you quite sure it was state-room number one, on the starboard side?

Ans. Yes, sir, I am.

Re-examined by Mr. Newberry.

Ques. Will you explain how the windows of your state-room could be opened or closed?

Ans. It was a sliding window which opened from the top; it might be opened at top, and not be opened where I was.

K. RING.

Depositions of Charles W. Kelso, John H. Walker, John Zimerlee, Jonas Gunnison, William A. Brown, Lewis S. Dunn, Miles W. Coughey, W. W. Loomis, George Berriman, S. Mervin Smith, M. W. Keith, Richard O'Brien, Samuel Perley, Simeon M. Dunn, and William Hinton, taken before Benjamin Grant, United States Commissioner for the Western District of Pennsylvania, at the City of Erie, on the 15th, 16th, and 18th days of September, A. D. 1854.

Dep'n of Chas. W. Kelso.

1st. What is your age, occupation, and residence, and how long have you resided in Erie, and are you still engaged in your profession?

Ans. My age is forty-four years. I am an attorney-at-law. My residence, Erie, Pennsylvania; where I have resided since the year 1835, the most of which time I have been engaged in the practice of my profession, and am still so engaged.

2d. Do you remember the occasion of the visit of the Ogdensburgh to Erie, after the collision with the Atlantic, August, 1852?

Ans. I do remember distinctly that occasion.

3d. Were you a member of the coroner's jury held upon the same day, to investigate the cause of death of a little girl, whose death was caused by said collision? and did the jury on that occasion investigate the causes of the collision?

Ans. I was a member of the coroner's jury called for the purpose indicated in the interrogatory. The jury did investigate the causes of the collision, and at my instance. It was suggested by some member of the jury, after it was ascertained that the drowning was caused by the collision, that it was unnecessary to proceed further. I then suggested that I thought it proper that we should make as full an investigation as possible of the whole case, not knowing but that a contingency might occur hereafter that would render it useful if we should do so. I then commenced the examination of McNett, the chief mate of the Ogdensburgh, myself.

4th. Do you remember with distinctness the testimony given by

De Grass McNett, the mate of the Ogdensburgh, before the jury on that occasion?

Ans. I do remember with distinctness the testimony of McNett, mate of the propeller Ogdensburgh, on account, probably, as stated in my answer to the third interrogatory, that I conducted the examination.

5th. If so, what was the testimony?

Ans. I am not able to give the language of the witnesses particularly, owing to their employment of technical phrases with which I was not very familiar; nor do I recollect with any degree of accuracy the testimony of any of the witnesses except that of De Grass McNett, he being the only one that I examined. I recollect that all the witnesses from the propeller who were examined before the coroner's jury, concurred as to the relative position of the two vessels with that of McNett, whose testimony was that the propeller Ogdensburgh was passing diagonally across Lake Erie from some one of the ports on the south shore west of Erie, either Cleveland or Conneaut, I do not recollect which, to the mouth of the Welland Canal. That when in his course he saw, about three or four miles off, a vessel with lights, going westward in her course along the north shore of the lake. I asked him if he knew when he first saw her that it was a steamer. He said he did; that he knew by her lights that she was a steamer when he first saw her. The reason of my asking McNett the question—(At this point Mr. Spalding, for the defendants, objected to the witness giving the reason that induced him to interrogate the witness on the stand.)

The reason of my asking the question was, that at the time I supposed a heavily ladened steamer was more unmanageable than the propeller, and that the propeller should have been more cautious on that account. Since then I have understood from hearing the other witnesses in the case, that a steamer is not more unmanageable than a propeller. The relative positions of the vessels as described by McNett where he first saw the steamer, was such as is indicated on a diagram marked Schedule A, and hereto attached; a similar one having been made by me, a short time after the investigation before the inquest. He stated in his testimony that he gave the order, I think rung the bell, to reverse the wheel to back the vessel only when she was within a few rods of the steamer. I think he stated that he did not think there would be a collision until he was within a few rods of the steamer. He said that owing to the vessel being heavily ladened, and her headway, she did not mind the influence of the backward motion of the wheel sufficient to stop her headway. He then gave the order "hard aport," which would have diverged his vessel to the south of the Atlantic; but it was too late, and the collision occurred. I asked him if he had given that order "hard aport" five minutes sooner, if he would not have avoided the steamer and this terrible calamity. He said certainly it would have avoided the collision. I asked him then why he did not give the order sooner

than he did. His answer was that he thought it was the business of the steamer to keep out of his way.

6th. Did McNett represent the position of the Ogdensburgh when he first discovered the Atlantic to be north or south of the course of the latter vessel, and would the lines representing the courses, as described by him, of the vessels, intersect in front of or astern of the Atlantic?

Ans. I do not recollect of McNett using the terms south or north, but that his testimony was that the position of the vessel was such as is laid down in the diagram hereto annexed, which would necessarily bring her south of the steamer.

Cross-examined by Mr. Spalding.

1st. In giving your testimony in chief, you referred to a memorandum, in writing, as containing the substance of what you would be willing to testify to in this case; please to state when that memorandum was drawn up, and in whose handwriting does it appear?

Ans. That memorandum was drawn up some time during last winter, during the visit of Mr. H. H. Emmons to this place. I do not know in whose handwriting it is. I think it is Mr. Newberry's, the gentleman who accompanied Mr. Emmons from Detroit.

2d. Where did Mr. McNett say he first made the lights of the steamer Atlantic, over his starboard or larboard bow?

Ans. I do not recollect the employment of those terms in connection with that, and don't think he was interrogated.

3d. Please to state the language of McNett as nearly as you can recollect it, which communicated to you ideas upon which you framed your diagram?

Ans. He said when he first saw the light, he was going on his course across the lake to the Welland Canal (as I said in my testimony), from some southern port of the lake, and that he saw the steamer at the distance stated (from three to five miles), and knew she was a North Shore steamer, going from Buffalo to Detroit. There was more said by McNett, which I don't recollect, which went to fix in my mind the locality of the vessels as I have designated in my diagram.

4th. Can you give me this further language of McNett, while under oath, in respect to the relative positions of the two vessels?

Ans. I cannot, having stated in my answer to the last interrogatory that I did not recollect.

5th. Did McNett say at any time, when giving testimony on that occasion, whether he made the steamer's light on his right hand or on his left hand?

Ans. I did not hear him make any expression of the kind, after McNett's reply to me that it was the steamer's business to keep out of the way. I asked him no further question, and there was considerable confusion; different members of the inquest asked McNett questions which I did not hear.

6th. When did you make this diagram which you have attached to your deposition?

Ans. I have made it to-day, while this deposition is being taken, intending that as an accurate copy of one referred to in my testimony in chief as having been made by me.

7th. What has become of the diagram which you say you made out a short time after the inquest?

Ans. I do not know. I exhibited it to Mr. Emmons when he was here last winter, and the last I saw of it, it was laying on his table in his room.

8th. What course did McNett say, on that examination, his propeller was steering when he made the lights of the Atlantic, and from that time up to the collision?

Ans. He stated that he was going northeastwardly, making for the mouth of the Welland Canal.

9th. Do you mean to be understood that Mr. McNett did not give the points of the compass?

Ans. I do not recollect whether he gave the exact points of the compass, but recollect that he said he was going northeastwardly.

10th. Do you recollect hearing Mr. McNett say, on that occasion, that the Atlantic had a red light at mast head?

Ans. I do not recollect of his saying that, but he might have said so, because, as I said before, there was a short time that I was not paying attention to what he did say, after the close of my examination?

11th. You say, in your testimony in chief, that McNett said, in answer to a question put him by yourself, that if he had given the order "hard aport" five minutes before he did, there would have been no collision; what was said, if anything, about this being the result, in case the "steamboat kept her course?"

Ans. He made no suggestion of the kind. His only reply to my question was, "certainly it would not."

12th. Who took the minutes of testimony which was returned as the testimony taken before the inquest?

Ans. I believe it was Jonas Gunnison, Esq., who took the notes of testimony, and I believe they were very imperfectly taken, not giving a full statement of the case. The testimony was not read over to the witnesses, nor signed by them. Mr. Gunnison was a member of the inquest.

13th. Was there not much confusion prevailing at the time of the inquest, and did not some of the members of the inquest say it was unimportant whether you inquired further than to ascertain the immediate cause of the death of the child, and was there not much excitement on account of the magnitude of the calamity?

Ans. There was not much confusion at the time of the inquest. It was very deliberately done, with the exception of a short time after his answer to my question why he did not give the order to avoid the collision; then there was some confusion, owing to a feeling

of indignation on the part of the jury towards McNett, arising not only from his reply, but the manner of it. No one but the foreman of the jury, who had been examining the witnesses, made any suggestion, and merely inquired whether it was important to go into a further examination. There was not much excitement, but a feeling of great solemnity on the part of the jury.

14th. Have you been retained by Mr. Ward as an agent or attorney or by any person in his behalf to look up testimony favorable to him in this cause?

Ans. I have never had any conversation or correspondence with Mr. Ward on this subject, not being acquainted with him. When Mr. Emmons and Capt. Gardner were here last winter, they said to me they were strangers here, not acquainted with the different members of the inquest, and would be obliged to me if I would aid them in getting the statements of the different members, which I did. Calling upon the different members and requesting them to call at Mr. Emmons' room and give their statements in writing. There was nothing said about compensation for my services until the evening of the day upon which these statements had been obtained, and the gentlemen were preparing to return home. In a casual conversation, as I was about taking my leave of them, Mr. Emmons observed that lawyers in Detroit did not work for nothing, and I must not expect to do so; that I must be compensated. Capt. Gardner also made an observation to the same effect. I replied that I did not think of that for a moment. I forget whether on that occasion I said I felt an interest in the case from an entire different source, but in the course of our conversation I mentioned that. That I in common with the whole jury was fully convinced from the testimony of McNett, the mate, himself, that the whole disaster was caused by the stubborn recklessness of McNett, and that I would freely afford what aid I could in securing a fair and just judgment in the case. I do not consider myself retained as counsel, and have no claim upon Mr. Ward or any person connected with him for compensation for my services. Some time before the meeting of these gentlemen last winter, Capt. Gardner was here alone, with a view to inquire into the case from the jurors particularly. He called upon me, and introduced himself, and informed me that he had understood that I was a member of the inquest in this case: and desired me to aid him in securing an opportunity of a conversation with the different members of the inquest on that subject, to ascertain their recollection. I went with him to the different members of the inquest, and requested them to attend at my office that evening, that we might compare our views and recollections. Most of the members of the inquest attended, and we had a pretty full conference on the subject. The next morning, on Capt. Gardner taking leave of me, he voluntarily handed me ten dollars, saying that he could not expect me to devote my time and attention to the matter without some compensation.

15th. Have you at any time corresponded with Mr. Ward, or Mr.

Emmons, or Capt. Gardner, or any other agent of Mr. Ward on the subject of this suit?

Ans. I have not with either of the gentlemen named. Some time after these gentlemen left last winter, I wrote to Capt. Gardner desiring to know whether certain copies of papers which I had sent by mail to him or Mr. Emmons, Mr. Emmons, I think, had been received, as their receipt had not been acknowledged. These papers were the statements made by the different members of the inquest on that occasion, which were left by Mr. Emmons for the purpose of being copied. They were handed to me by Mr. Wetmore, after Messrs. Emmons and Gardner had left. I had copied them myself and sent the originals as before mentioned. This is the only letter I have ever written on the subject to any person.

16th. Can you give me the course by the compass that steamboats steer running in the north shore line from Buffalo to Detroit?

Ans. I cannot.

17th. You have spoken of your willingness to lend your aid in securing a fair and just judgment. After saying that you, in common with the whole jury, imputed the disaster to the stubbornness and recklessness of McNett, you, probably, would consider a just judgment a judgment against the owners of the propeller in this case. If not so, what do you mean by a just judgment in this case?

Ans. I would consider a judgment in this case against the owners of the Ogdensburgh a fair and just judgment according to the testimony given before the inquest by McNett and others.

Direct Examination resumed.

1st. Do you intend to represent by the diagram you have handed the master mathematical proportions, and would the course of the propeller cross that of the Atlantic in front of or in rear of the latter vessel, as such course was spoken of by McNett, in his evidence before the jury?

Ans. I do not intend to represent mathematical proportions, or any approximation to accuracy as to the locality or courses of these vessels by the diagram I allude to; nor do I intend by my diagram to represent whether the propeller would cross in front or rear of the steamer. I intend this diagram to be as nearly as possible a copy of the one made by me soon after the coroner's inquest, and alluded to by me in my direct examination. That diagram was made by me while in conversation with some person in my office, and was intended to indicate in a general manner the relative situations and courses of these vessels, that the propeller was south of the course of the Atlantic when the mate first perceived her, and from their locality and the course from the time of the first discovery of the Atlantic up to the time of the collision, there appeared to be such an absence or want of any effort on the part of the mate of the propeller to change the course of his vessel that I could not divest myself of the idea that the collision was intentional, on the part of the mate particularly,

as I had understood that there was a jealousy on the part of the masters of the propellers against steamboats. This was the idea I got from the testimony before the inquest and which I intended to illustrate by my diagram.

CHARLES W. KELSO.

Dep'n of Jno. H. Walker.

1st. What is your age, occupation, residence, and how long have you resided in Erie?

Ans. I am fifty-four years of age, and upwards, am a lawyer by profession, have lived in Erie for thirty years and upwards, during which time, I have been engaged in the practice of my profession, except four years that I have been a representative in the legislature of this State, and three years in the senate.

2d. Do you remember the visit of the propeller Ogdensburgh to Erie, in August, 1852, after the collision of the steamer Atlantic?

3d. Was you one of the jurors called to investigate the cause of death of a child, brought into Erie on said propeller, whose death was caused by said collision? and did you also as one of said jurors, proceed to investigate the cause of said collision?

4th. Was De Grass McNett sworn before said jury?

To interrogatories Nos. 2, 3, and 4.

Ans. Yes.

5th. Please state what he then swore to, as to the distance that he saw the Atlantic off, what colored lights he then saw, and from what time to what time did they remain in sight?

Ans. McNett swore before the inquest, that from three to five miles off, he saw the steamer. He swore he saw two lights, one a red light, and one a white light, when he first saw the steamer; and they remained continuously in sight until the time of the collision. I may here add, that I have a more distinct recollection of his testimony, from the fact that I drew up the finding of the inquest, from testimony taken before it by one of the jurors and handed to me, and my own recollection of the testimony.

6th. From and to where respectively did he represent the Ogdensburgh and Atlantic to be going?

Ans. He represented the Ogdensburgh as going from some port on the southern shore of Lake Erie, my recollection is, that it was Cleveland, or some port near there, to the Welland Canal, and that the steamer was on her way from Buffalo to Detroit, being one of the North Shore boats. I do not know that anything was said about courses, except the mention of the ports from which and to which the vessels were going. I do not recollect that the course northeast was mentioned.

7th. How did he say he expected to cross the course of the Atlantic, ahead of her or astern, and why he was disappointed, if at all, in that expectation?

Ans. He said he expected to cross ahead of the steamer. He was disappointed, as he thought, because the steamer turned from her course more to the right towards the Canada shore and thus brought about the collision, he had further to go than he anticipated.

8th. What question was put to McNett by yourself or Mr. Kelso, or one of the jury as to porting his helm, 5 minutes before collision, and what was his answer?

Ans. There was a question put by a juror to McNett, why he did not change his course sooner; his answer was, that it was not for him to change his course, as he was in his right direction, but for the steamer.

Cross-examined by Mr. Spalding.

1st. Did Mr. McNett say before your inquest that the steamer Atlantic carried her red light at the mast-head?

Ans. I cannot say that he stated where the steamer carried her red light.

2d. Was you present at the interview, had last winter by Mr. Emmons, Capt. Gardner, and Mr. Newberry, attorneys and agents for Capt. Ward, or some of them, with the members of the coroner's inquest or a portion of them, at Brown's Hotel, in Erie?

Ans. I was present at an interview at Brown's Hotel last winter, with Mr. Emmons, Capt. Gardner, and Mr. Newberry, and some of the jurors, a short time.

3d. Do you recollect whether one of the gentlemen took a memorandum in writing of your statement at that time?

Ans. I have no recollection that a memorandum was taken of my statement, taken at that time, but I have a recollection that a memorandum was taken of the statement of some one of the jurors.

JNO. H. WALKER.

Dep'n of Jno. Zimerlee.

1st. What is your age, residence, and occupation, and how long have you resided in Erie?

Ans. I am now fifty-two years of age, my residence is Erie. I was formerly in the mercantile business, am now tax collector in the City of Erie.

2d. Do you remember the occasion when an inquest was held on the body of a child, brought into Erie by the propeller Ogdensburgh, whose death was caused by the collision between the Ogdensburgh and Atlantic in August, 1852?

3d. Was you a member of said jury, and was NcNett, the mate of said propeller, sworn before said jury and examined?

To the 2d and 3d interrogatories.

Ans. Yes.

4th. From and to where did he say the Ogdensburgh and the Atlantic respectively were going?

Ans. McNett stated that the propeller Ogdensburgh was going from Cleveland to Grand River in Canada. That the steamer was going from Buffalo to Detroit, on the north shore.

5th. Will you look at the diagram marked B, attached to these depositions, and state whether it represents generally, the courses as described by McNett. The diagram does not pretend to mathematical accuracy as to courses or positions of vessels?

Ans. After being shown diagram marked schedule B, and hereto attached, it is about as I understood the witness.

6th. When he first saw the Atlantic, what colored light did he say he saw, and how far off was she?

Ans. That when he first saw the Atlantic he saw a red light, and she was, he thought, about four or five miles off.

7th. How did he say he expected to cross the course of the Atlantic, across her bows, or astern of her?

Ans. That McNett stated that he expected to cross the course of the Atlantic at her bows, or ahead of her.

8th. Can you state what reason he gave for his disappointment?

Ans. That because the steamer turned to the right or ported her wheel, was the reason why he was not able to get ahead of her.

9th. Did he give any reason why he did not stop his vessel, and can you state what they were?

Ans. He stated that the bell was rung to stop the vessel, but that she was under so much headway that it had no effect.

10th. Can you state a question put to him by one of the jury, in regard to turning his boat to the right sooner, and his reply to the same?

Ans. The question was put to him by one of the jurors: If he had turned to the right a few minutes sooner, if the collision would have happened? He said, no, it was not his business to turn to the right, but for the steamer to keep out of his way.

Cross-examined by Mr. Spalding.

1st. Have you at any time, and if so, how often, had a conversation with Mr. Emmons, Capt. Gardner, or Mr. Newberry, in regard to your knowledge of any of the circumstances about which you have testified above?

Ans. I have had conversation with some gentlemen from Ohio, or Detroit, about the matter some time last winter; the gentleman now present, Mr. Emmons, was one of them.

2d. At what house did this conversation take place?

Ans. I think this conversation took place at Brown's Hotel, in Erie.

3d. Was the diagram referred to by yourself, and marked schedule B, drawn up by yourself; if not, who presented it to you?

Ans. It was not drawn up by myself. It was presented to me this morning by Mr. Emmons.

4th. Did McNett say, when testifying before the inquest, that the steamer Atlantic carried her red light at the mast-head?

Ans. I did not hear him state any such thing.

5th. Did he state, on that occasion, what courses by the compass the propeller and the steamer were steering, from the time the light was first made up to the collision.

Ans. I don't know that I heard him mention any courses. He stated that the propeller was going from Cleveland to Grand River, in Canada, and that the steamer was going from Buffalo, on the North Shore, up the lake.

6th. Did he state on that occasion, whether he made the light of the steamer over his starboard bow, or larboard bow, or at his right, or left?

Ans. I don't know as those questions were asked. I don't recollect.

J. ZIMERLEE.

Deposition of Jonas Gunnison.

1st. What is your age, occupation, and residence?

Ans. My age is twenty-nine years. I am an attorney at law. Residence, Erie, where I have resided nine years. I was born in the county.

2d. Do you remember the occasion when a coroner's jury was summoned to hold an inquest upon the body of a child brought into Erie upon the propeller Ogdensburgh after her collision with the Atlantic, in August, 1852?

3d. Was you one of that jury?

4th. Was De Grass McNett, the mate of said propeller Ogdensburgh, sworn and examined then?

To interrogatories 2d, 3d, and 4th.

Ans. Yes.

5th. Who took the minutes of said testimony? and will you state whether you consider the same imperfectly taken, and the reason why; and explain particularly in relation to the statement, that a red light was at mast-head?

Ans. I took the minutes of the testimony before the coroner's inquest; I consider them imperfectly taken, because, that on the occasion there was a considerable excitement, various members of the jury simultaneously put questions to McNett; the answers of McNett were given much faster than they could be written down. He stated that the lights of the Ogdensburgh were at the mast-head, and stated that the light of the Atlantic was on the mast, or about the mast. I do not now remember that he said the Atlantic's light was at the mast-head. I know nothing about seamen's phrases, but supposes the larger end of the mast to be the head. By the larger end, I mean the lower end of the mast. McNett stated when the Atlantic's signal light was placed on her mast, it was above the deck. I do not recollect the number of feet.

6th. How far off did McNett state at that time that he saw the Atlantic, and did he know it was a steamer when he first saw her, and how did he know it; and what colored lights did he say he saw, if any, and how soon, and what portion of time before collision did he state he saw the lights?

Ans. He said he saw the steamer three or four miles off; he knew her to be a steamer by her lights, that she had a white and red light. He described the lights to be a white and a red light, and that he saw the lights up to the time of the collision.

7th. From and to where, did he say the Atlantic and Ogdensburgh respectively, were going.

Ans. The Atlantic was going from Buffalo to Detroit along the Canada shore, and the propeller was going from Cleveland to the Welland Canal.

8th. How did he say he expected to pass the Atlantic, ahead or astern of her, and can you give the language he used in expressing his expectations, and state the reasons he gave why he was disappointed?

Ans. He said he expected to pass ahead of the Atlantic, and the reason why he did not, was that the Atlantic changed her course and turned to the right, and thus increased the distance he had to run in crossing her line.

9th. Do you remember a question put by Mr. Kelso, if so, state it, and the reply of McNett?

Ans. McNett was asked by Mr. Kelso, or some one, "If he had turned to the right five minutes sooner, if the collision would not have been avoided." He answered that it would, but it was not the Ogdensburgh's business to turn to the right.

Cross-examination by Respondents' Counsel.

1st. Have you ever testified in this case before, and if so, when, where, and at whose instance?

Ans. I have, at Columbus, Ohio, the fore part of May, 1853, in the United States District Court, at Columbus, Ohio, at the request of the owners of the Atlantic.

2d. Did you testify on that occasion as you have here to-day?

Ans. I think I did; I may not have testified as fully on some points, perhaps more fully on some points.

3d. Did you have an interview with Mr. Emmons or any other attorney or agent of the owners of the Atlantic here in Erie last winter?

Ans. I did.

4th. During the testimony of McNett before the inquest, did he not say that he checked the speed of the propeller some time before the collision?

Ans. He did, but that, owing to the heavy load he had on, and the smallness of the wheel, he was unable to stop her in so short a distance.

5th. Did he not say that he run with abated speed some little time before he gave the signal to stop and back?

Ans. I think he said he directed the engineer to "slow the engine," and afterwards he directed the engineer to stop the boat.

6th. Did he not say that when he first made the Atlantic's lights he saw them over his starboard bow, or at his right hand?

Ans. I do not think he did. To my recollection, he said nothing on that subject. I recollect nothing.

7th. Did he give the course he was running by the compass?

Ans. If he did, I do not recollect it.

8th. Did you know, at the time of the inquest, how the steamers on the lake carried their signal lights?

Ans. I did not, or at least I had no particular recollection of how they carried them.

JONAS GUNNISON.

Dep'n of Wm. A. Brown.

1st. What is your age, residence, and occupation, and how long have you resided in Erie?

Ans. My age is fifty-one years, my residence is Erie, I have resided in Erie County during my whole life, and am at present engaged in no particular business. I have resided in the City of Erie since 1812, with the exception of three years. Am a Director of the Erie City Bank, and have a farm carried on in the vicinity of the city.

2. Do you remember the fact that an inquest was held on the body of a child brought into Erie, whose death was caused by the collision between the steamboat Atlantic and the propeller Ogdensburgh, in August, 1852.

3d. Was you a member of said jury, and was McNett, mate of said propeller, sworn before said jury and examined?

To interrogatories Nos. 2 and 3, he answers in the affirmative.

4th. From and to where did he say the Ogdensburgh and the Atlantic, respectively, were going?

Ans. McNett, the mate, said the Ogdensburgh was passing from this shore to the mouth of Grand River, or the Welland Canal, that is, from the south shore of Lake Erie, and that the Atlantic was passing from Buffalo to Detroit, on her course along the north shore of the lake.

5th. Will you look at diagram marked B, attached to these depositions, and state whether it represents generally the courses as described by McNett?

Ans. After looking at exhibit B, to these depositions attached, that is very near the idea I got of it from the testimony, that is, of the positions of the two vessels.

6th. What colored light and other light did he state he saw when he first saw the Atlantic, and how far off did he say he saw her, and how did he change that distance, if at all?

Ans. My recollection is that he first said that the Atlantic was off at about five miles distance, and then corrected himself by saying three or four, when he first saw her. The light he first saw was a red light, and he judged it to be about five miles off, and he then corrected himself, and said three or four.

7th. Did you know, at that time, that seeing a red light would necessarily place the Ogdensburgh to the south of the Atlantic, and if not, how did you learn the positions relatively of the vessels?

Ans. I did not know that seeing a red light would necessarily place the Ogdensburgh south of the Atlantic. I knew steamers carried red lights, but I did not know for what purpose. I had seen them coming into port. I learned the positions of the vessels from descriptions given by the witnesses.

8th. Did McNett state that he was to the south or north of the course of the Atlantic, and did he say he expected to cross the bows or astern of the Atlantic?

Ans. I don't distinctly recollect that the terms north and south were used, but all the testimony went to show that the propeller was south of the course of the steamer. I do recollect distinctly that he said he expected to cross her bows before she got along.

9th. Can you state what he said in relation to stopping his boat, and whether he was able to do so or not?

Ans. There was something said about it: I cannot distinctly say what.

Cross-examined by Respondents' Counsel.

1st. Did not McNett say, in substance, that the collision was produced by means of the Atlantic changing her course, and turning in towards the Canada shore?

Ans. My recollection is not very clear upon that point, but my recollection is that McNett threw the blame on the Atlantic, whether by turning or not, I cannot say.

2d. Did not McNett say that he checked the speed of his vessel some time before the collision?

Ans. I think he did, a very short time before the collision. I think he did state so.

3d. Did not McNett say that when he first discovered the Atlantic's light it was on his right hand, off his starboard bow, or words to that effect?

Ans. I think that in his testimony he did not mention it; merely said that he saw the red light five miles distance, and then corrected himself and said three or four. There was a good deal said that I do not recollect.

4th. Did he say how his vessel was heading by the compass at the time of the collision, or for ten minutes previous?

Ans. I think he did; but I do not recollect what the course was.

5th. Was it northeast by east?

Ans. I could not state what the course was.

6th. Did any of the officers or men who were on board the Atlantic steamer at the time of the collision give testimony before that coroner's inquest?

Ans. There were persons who were strangers to me gave testimony before the inquest; but I think none of them officers or hands of the Atlantic. I think some passengers did testify.

7th. Do you know what had become of the officers and crew of the Atlantic at this time?

Ans. I do not.

8th. Will you please to state whether you was present at any time last winter when some of the members of the inquest had an interview with Mr. Emmons (the gentleman here present) or Capt. Gardner (also present) in respect to this subject?

Ans. Yes, sir; I was present one evening. I was called upon by the coroner to go to Mr. Kelso's office. At another time I went by myself to Mr. Emmons' room at Brown's Hotel.

Re-examination.

1st. You say in your cross-examination that McNett said he slowed his engine a very short time before the collision; did he also add that owing to the headway of the propeller it did not do any, or not much good? Or did he say in substance that he was not able to stop in time?

Ans. He said he stopped his engine, but it proved to be too late to prevent the collision. This was but a very few minutes before the collision, and when the vessels were very close together.

W. A. BROWN.

Dep'n of Lewis S. Dunn.

1st. What is your age, occupation, and residence, and how long have you resided in Erie?

Ans. My age is thirty-nine; my residence, Erie, where I have lived during my whole life, excepting about eight or nine months. My occupation, formerly a carpenter.

2d. Do you remember the occasion when an inquest was held on the body of a child brought into Erie by the propeller Ogdensburgh, whose death was caused by the collision between the Ogdensburgh and the Atlantic, in August, 1852?

3d. Was you a member of said jury, and was McNett, the mate of said propeller, sworn before said jury and examined?

To interrogatories Nos. 2 and 3—

Ans. Yes.

4th. From, and to where did he say the Ogdensburgh and the Atlantic respectively were going?

Ans. He said the Atlantic was on her way from Buffalo to Detroit or Cleveland, I do not recollect which. The propeller was on her course from Cleveland to the Welland Canal. The Atlantic was on the north shore of the lake.

5th. Will you look at the diagram marked B, and attached to these depositions, and state whether it represents generally the courses as described by McNett?

Ans. After looking at Exhibit B, that it represents about what he understood the positions of the vessels to be, so far as relates to their courses. I do not mean that the diagram represents their turnings out, but only their general courses in straight lines.

6th. When he first saw the Atlantic, what colored light did he say he saw, and how far off was she when he first saw such light?

Ans. That McNett said he saw the vessel between three and four miles; that he saw a red light?

7th. Do you recollect whether McNett said he expected to cross her bows or astern of her?

Ans. I think McNett said he calculated to cross the bows of the steamer.

8th. Can you state a question put by Mr. Kelso, one of the jury, and the reply of McNett, in relation to turning to the right or porting his helm?

Ans. The question was asked by Mr. Kelso if he could not have saved the collision by turning out, and how long it would have taken him to do so. McNett's answer was that it would have taken him about five minutes to have got out of the way; and in answer to Mr. Kelso's question why he did not do so, he said it was the Atlantic's business to keep out of the propeller's way.

Cross-examined by Respondents' Counsel.

1st. Did you have an interview last winter with Mr. Emmons or Capt. Gardner in this town upon this subject? If so, how often, and at what places?

Ans. I did have an interview once in Mr. Kelso's office, when Capt. Gardner was present. I think Mr. Emmons was not here then. Afterwards, some months after, I saw Mr. Emmons at Brown's Hotel, and gave him my statement, which was written down by Mr. Emmons. I was at Mr. Emmons' room yesterday, and talked with Capt. Gardner on this subject.

LEWIS S. DUNN.

Dep'n of Miles W. Coughey.

1st. What is your age, residence, and occupation, and how long have you resided in Erie?

Ans. My age is forty-two; my residence, Erie, and I am secretary to the Erie Canal Company.

2d. Have you been engaged in the forwarding business, and have you any general knowledge of the business of navigation?

3d. Do you remember the occasion when the Ogdensburgh propeller came to Erie the morning after her collision with the Atlantic in August, 1852?

To interrogatories second and third—

Ans. Yes.

4th. Did you go on board of the Ogdensburgh on that morning, and why?

Ans. I went to the Ogdensburgh to ascertain the cause of the collision.

5th. Was the cause of the collision explained to you by the officer in charge of the boat?

Ans. The cause of the collision was explained to me by those on board of the propeller whom I supposed to be the officers of the boat.

6th. Was there lines drawn on the deck of the Ogdensburgh at that time and place representing the courses of the two vessels, and did those lines cross each other?

(Mr. Spalding, counsel for the respondents, objects to this interrogatory as too indefinite.)

Ans. There were lines drawn on the deck of the propeller I think in chalk marks, purporting to represent the courses of the two vessels at the time of collision. They represented the steamboat to be on her direct course from Buffalo to Detroit. The propeller was represented to be on her course from Cleveland to the Welland Canal. Those lines crossed each other.

7th. Where on those lines did he locate the Ogdensburgh and the Atlantic, and where from and to what places was it said the vessels were going?

Ans. The Ogdensburgh was south of the Atlantic's course.

8th. What did he say about his crossing the bows of the Atlantic before she got to the place where the courses crossed, and his reason why he did not get across?

Ans. That it was stated by those making the diagram that they intended to cross the bows of the Atlantic, but when they came near her she ported her helm, and gave them a greater distance to run, and thus caused the collision.

9th. In giving you these explanations, did the person speaking use the words "we," "he," or "I" did so and so?

Ans. I have not a very distinct recollection of that; I think they used the term we, but cannot state whether the person who talked most said we or I.

10th. Did you, in that conversation, ask him if he saw the steamboat in time to avoid the collision, why he did not do so, and did he not reply that he thought he had ample time to cross her bows, or to that effect?

Ans. I cannot say whether I asked him, or whether it was asked in my presence; but the question was asked, and his reply was that he supposed he had ample time to cross the bows of the Atlantic, but was prevented from doing so by the turning to the right, or porting her helm.

11th. Please state any other reason that occurs to you why you

supposed the persons you were speaking to were the officers of the boat?

Ans. There are no other, except that they were men who did not belong here, and appeared to have charge of the boat, and appeared like seafaring men, and spoke as officers of the boat explaining their conduct. I have been a forwarder, and am somewhat familiar with seafaring men and business.

12th. Please state any other fact occurring shortly afterwards that impressed this conversation on your mind.

Ans. There was a good deal of excitement relative to the matter, and a public meeting called that evening, and there was talk of arresting the mate of the propeller; and there was a good deal of discussion as to who was at fault.

13th. Did you see Capt. Petty, of the Atlantic?

14th. What was his appearance?

To interrogatories 13th and 14th—

Answer. I saw Capt. Petty, of the steamer Atlantic. He appeared to be injured and a good deal bewildered.

Cross-examined by Mr. Marshall, for Respondents.

1. Who were present at the time you speak of being on board the propeller when the chalk marks were made?

Ans. I do not know that I can recollect any one. There were two passengers who had been on the Atlantic, whose names I did not know, and several citizens, whose names I cannot recollect distinctly.

2. Were there not a large crowd of people on board, and a great many inquiries made at the time?

Ans. The crowd was not very large; there were a good many inquiries made relating to the affair.

3d. Have you been called upon by any person or persons in relation to your knowledge of the facts testified to by you in chief? if so, please state by whom you were called on, when, and how often.

Ans. Mr. Gardner called on me first I think some time during last fall. Last winter, he called on me again. I went with him to Mr. Emmons' room, and detailed the conversation as I have testified to in substance. I think it was taken down in writing at the time.

4th. How long were you engaged in the forwarding business?

Ans. Only one year.

5th. Did the explanations given by those persons aboard of the propeller, before mentioned, throw the blame of the collision upon the Atlantic or the propeller?

Ans. The persons making the explanation threw the blame on the Atlantic.

6th. In what way did Capt. Petty appear to be injured?

Ans. He appeared to be injured in or about his head. His head was bound up.

MILES W. COUGHEY.

Dep'n of W. W. Loomis.

1st. What is your age, residence, and occupation, and how long have you resided in Erie or Erie County?

Ans. My age is thirty-five. I reside in Erie, where I have resided for eight years. I am deputy-collector of customs at Erie, Pa.

2d. Do you remember the occasion of the inquest being held on the body of a child in Erie, brought there by the propeller Ogdensburgh, whose death was caused by the collision of the Ogdensburgh and the Atlantic in August, 1852?

3d. Was you a member of said jury, and was McNett, the mate of said propeller, sworn before said jury and examined?

To interrogatories 2d and 3d—

Ans. Yes.

4th. From and to where did he say the Ogdensburgh and the Atlantic respectively were going?

Ans. That the Ogdensburgh was going from Cleveland, bound for the Welland Canal. The Atlantic was on her course from Buffalo to Detroit.

5th. Will you look at the diagram marked B, and attached to these depositions, and state whether it represents the courses as described by McNett; and did they cross each other as represented?

Ans. That the diagram represents the courses as testified to by McNett, which diagram is hereto attached.

6th. What colored lights did he say he saw when he first saw the Atlantic, and at what distance did he see them?

Ans. That McNett stated that he saw both red and white lights when he first saw the Atlantic, some three, four, or five miles off.

7th. How did he say he expected to cross the course of the Atlantic, across her bows or astern of her?

Ans. That McNett testified that he expected to cross the bows of the Atlantic.

8th. What reason did he give why he was not able so to cross?

Ans. That McNett stated that the Atlantic ported her helm or swung to the right towards the Canada shore. If she had not done so, he would have been able to have passed ahead of her.

9th. What did he say about ringing his bell to stop his boat and the effect it produced?

Ans. That he rung the bell before the collision, but that he did not ring it soon enough to stop the collision, although the vessel was checked some.

10th. What was the question asked by Mr. Kelso or some juryman about his porting helm 5 minutes before collision, and what was the reply of McNett?

Ans. Mr. Kelso asked McNett if he had rung the bell five minutes before, and ported his helm, what would have been the effect. His answer was that the collision would have been avoided had he done

so, that it was the business of the steamboat to keep out of his way.

Cross-examined by Respondents' Counsel.

1. Did you have an interview with Mr. Emmons or any other attorney or agent of the owners of the Atlantic here in Erie last winter?

Ans. I did with Mr. Emmons, and there were a number of those who had been on the coroner's inquest present. Coroner Dunn requested me to call there.

2d. During the testimony of McNett before the inquest, did he not say that he checked the speed of the propeller some time before the collision?

Ans. He said he rung his bell, but not soon enough to avoid the collision; that he checked her speed some, but that he was too near to stop her heading to avoid the collision.

3d. Did he not say that when he first made the Atlantic's lights, that he saw them on his starboard or right hand bow?

Ans. He said he saw her some three, four, or five miles distance, but I cannot answer the interrogatory definitely.

4th. Did he give the course that he was running by the compass?

Ans. He said he was on the direct course from the port he started from to the Welland Canal, and the steamer on her course, but he does not recollect that he gave the points of the compass.

W. W. LOOMIS.

Deposition of George Berriman.

1st. What is your age and residence? What service have you been engaged in on the lakes, and how long, and in what capacity, and are you familiar with navigation?

Ans. My age is fifty-six. My residence Erie. I was in the revenue service on the lakes as a lieutenant for nearly eleven years, and am familiar with navigation.

2d. Do you remember the time when the Ogdensburgh came to Erie, after the collision with the steamer Atlantic in August, 1852?

Ans. I remember the occasion when the Ogdensburgh came to Erie after the wreck of the Atlantic.

3d. How near your place of business did the said propeller lay while repairing?

Ans. Within about thirty feet.

4th. Did you see the officers of said boat, and what name did the captain and mate answer to?

Ans. The officers of the boat I was not acquainted with, but was told that the captain's name was Richardson, and the mate's name McNett, and I heard them answer to those names and talked with them.

5th. On the dock near the propeller, the same morning they arrived, did you observe the mate, McNett, make any drawings or diagrams representing the courses of the two vessels?

Ans. I did.

6th. From and to where did he represent by the lines he drew there as going respectively, and where did he represent their courses as crossing?

Ans. He represented by the lines on the dock that the Ogdensburgh was steering from the south shore of the lake to Long Point, or the Welland Canal, and that the Atlantic was on her course from Buffalo to Detroit, and represented their courses as crossing five or six miles to the westward of Long Point.

7th. Did he locate his own vessel on the line representing its course north or south of the place where their courses crossed, and does diagram B correctly represent generally that drawn by McNett, and the relative positions of the vessels?

Ans. In his diagram on the dock he represented his position at the time he discovered the Atlantic as south and west of the point where the lines crossed, and diagram marked schedule B, and hereto attached, represented the courses and distances as represented by McNett's diagram on the dock.

8th. And did locate the Atlantic east or west of the point of intersection?

Ans. He located the Atlantic north and east of the position of the propeller.

9th. How did he say he expected to cross the course of the Atlantic, across her bows or astern?

Ans. He calculated to cross the bows of the Atlantic and go to the northward of her.

10th. And what reason did he give for not succeeding?

Ans. The reason was that the Atlantic kept porting her helm, and steering more to the northward and westward, and increased the distance which the propeller had to run that the Atlantic run into the propeller.

11th. When did he say he rang the stopping bell, and what effect did it produce before the collision?

Ans. That he thought that he could get by her, but when he got close to her he discovered he could not get by, and rung the stop bell, but she had time to make but one or two revolutions back, and not in time to stop her headway.

Cross-examined by Respondents' Counsel.

1st. Did this conversation you relate by one of the officers of the propeller take place the day after the collision?

Ans. The same day, the morning of which she came into port.

2d. Was the diagram made on board of the propeller, or where was it made?

Ans. It was made on the dock near by where the propeller lay.

3d. Were you then or at any time after acquainted with the capt. and mate of the propeller?

Ans. I was not.

4th. Did you have an interview with Mr. Emmons, or any other attorney or agent of the owners of the Atlantic in Erie last winter?

Ans. I had an interview with Mr. Emmons.

Re-examination.

No. 1. Did you converse with McNett, the mate, and did he answer to his name as such, and did you, when he was passing to and fro, recognize him as the mate of the propeller? Did he act as one of the officers of the propeller Ogdensburgh, when she lay at the dock repairing?

Ans. That he did converse with him from time to time, three, four, or five times, and knew him to be the mate by the others accosting him as such. I hardly think I would know him if I should meet him now.

Cross-examination resumed.

1. Describe the man whom you took to be mate, as to age, size, and appearance?

Ans. I should take him to be between thirty and thirty-five years of age, about five feet eight or nine inches high, not very stout.

GEORGE BERRIMAN.

Deposition of S. Mervin Smith.

1st. What is your occupation, your age, your residence, and how long have you resided in Erie?

Ans. My age is forty-five years, residence Erie, and is an attorney at law; at present is deputy prothonotary for Erie County; have resided in Erie since 1845.

2d. Do you remember the occasion of the visit of the propeller Ogdensburg, in August, 1852, to Erie, with some of the passengers of the Atlantic, after her collision with that boat?

Ans. I do.

3d. What office did you then hold in Erie?

Ans. I was then acting magistrate and prothonotary's clerk.

4th. Were you present before the jury of inquest held at Erie, when McNett was sworn, and do you remember his statements then made?

Ans. I was present and heard McNett's testimony before the coroner's inquest.

5th. State what particularly impressed upon your mind his testimony as to the colored lights he saw on the Atlantic?

Ans. Just previous to that time some one had forwarded to me, through the post office, a pamphlet containing the regulations of the British Admiralty, relative to vessels passing each other, and the

manner of showing lights, accompanied by a diagram, showing vessels passing each other in various positions. I had read it, and was measurably prepared to understand the matter, and consequently paid more attention to the matter from that fact.

6th. Where did he state the Ogdensburgh was going, and from where did she depart?

Ans. That McNett stated that he set his course to cross the lake near Ashtabula to the Welland Canal; and the steamer was on her course from Buffalo to Detroit, along the North Shore.

7th. Where that the Atlantic was going, and did he represent that the courses crossed, and does the diagram B generally represent them?

Ans. The diagram is something of a representation of the position of the two vessels, as stated by McNett, and that their courses would cross near Long Point, as he stated.

8th. What did he say as to the distance he saw the Atlantic's red light, and how did he alter that distance?

Ans. That he thought the distance of the Atlantic's red light, when he first saw her, five miles. Subsequently he named three or four miles as the distance, whether in answer to a question or not, I do not recollect.

9th. What did he say then and there in reference to his expectation of crossing ahead of the Atlantic, and if any, what reason did he give why he was not able to cross her bows?

Ans. That McNett stated that it was his intention to cross the bows of the Atlantic, and should have done so if she had not changed her course, but that she inclined to the right, thus lengthening the distance which the propeller had to run, and he was unable to do so.

10th. What question was then asked him by one of the jurors, as to his turning to the right, or keeping to the south of the Atlantic, and thus avoiding the collision?

Ans. The question was asked McNett if he had ported his helm if a collision would not have been avoided. He answered it would.

11th. What was his reply, and what additional circumstance can you state that caused you distinctly to remember it?

Ans. The question was asked McNett why he did not port his helm, and he answered that it was the business of the steamer to keep out of the way. The character and manner of McNett's reply impressed it upon my mind. His manner was offensive and unfeeling.

12th. What did he say in reference to ringing the bell to stop, and what effect did he say this ringing the bell produced?

Ans. I think he answered to that, that the whistle was out of order. But the bell was rung to back, and wheel reversed, but the momentum was so great that it did not slacken her course materially. He was three or four rods from the steamer when he rung the bell.

13th. Are you familiar with navigation, and how did you become so?

Ans. I was reared on the banks of Lake Champlain. Acquainted with the water from my earliest youth. And for two seasons I was the owner and commander of a vessel.

13th. Did you see McNett draw a diagram on the bow of the propeller, and if so, describe it, and say what explanation he then made?

Ans. I was called down to the dock, and heard conversation between McNett, the mate, and Mr. Coughey. McNett drew a diagram on the bows of the propeller, resembling generally diagram B, hereto attached. He stated that he expected to have been able to cross the bows of the Atlantic before she reached the point of intersection, and would have done so, if she had kept her course, that she inclined to the right to the shore.

Cross-examined by Respondents' Counsel.

1. Were you a member of the inquest?

Ans. I was not.

2. Were there many spectators attending the inquest, and what was the state of feeling?

Ans. There were, and there was quite an excitement.

3. I wish you to state, if you can pretend to recollect with any degree of accuracy, the testimony given by McNett before the jury?

Ans. From certain reasons, I think I can; that is, the main points of his testimony.

4. In the diagram made on the bow of the propeller, mentioned in your testimony in chief, did not McNett attempt to demonstrate that the collision was caused by the fault of the Atlantic.

Ans. He certainly did.

5. Did you have an interview with Mr. Emmons, or any other attorney or agent of the owners of the Atlantic, in Erie last winter?

Ans. I did have an interview with Mr. Emmons last winter.

6. During the testimony of Mr. McNett before the inquest, did he not say that he checked the speed of the propeller some time before the collision?

Ans. I do not recollect that he did.

7. Did he not say, that he run with abated speed some little time before he gave the signal to stop and back?

Ans. I think the whole drift of his testimony showed that he did not, until he got within three or four rods of the steamer.

8. Did he not say, that when he first made the Atlantic's lights he saw them over his starboard bow?

Ans. I do not recollect that he stated the position of his own vessel, whether it was over the larboard or starboad bow; that it was over the larboard or starboard bow that he first saw the light.

9. Did he give the course that he was running by the compass?

Ans. I do not know that he did.

S. MERVIN SMITH.

Deposition of M. W. Keith.

1st. What is your age, and residence; how long have you resided in Erie?

Ans. I am thirty-two years old; have lived in Erie twenty-two years. I am a hotel keeper, am now keeping Brown's Hotel in the City of Erie. At the time of the accident to the Atlantic I was not acquainted with Captain Petty.

2d. Do you know Capt. Petty, formerly of the steamboat Atlantic, and how long have you known him?

3d. Did you see Capt. Petty the morning after the collision of the propeller Ogdensburgh and the steamboat Atlantic?

To 2d and 3d int's—

Ans. At the time of the collision between the propeller Ogdensburgh and steamer Atlantic there was quite a rush to the Reed House, of which I was then proprietor, a number of persons came there without clothing; soon after Capt. Petty came, he had the appearance of having been hurt considerably, his head was tied up. I do not know whether he was hurt otherwise, I did not inquire.

4th. At that time what business were you engaged in, and where did you see Capt. Petty?

5th. State what was his condition and appearance at that time.

(4th and 5th int. not answered except, as above.)

Cross-examined by Respondents' Counsel.

1. Did you discover any marks of injury upon Capt. Petty, other than his head tied up?

Ans. I did not.

M. W. KEITH.

Deposition of Richard O'Brien.

1st. What is your age, residence, and occupation?

Ans. My age is thirty, my residence in Erie. I am now a clerk for Andrew Scott; at the time of the collision between the propeller Ogdensburgh and steamer Atlantic my business was attending to freight matter on the dock.

2d. Do you remember the time when the propeller Ogdensburgh came to Erie, after her collision with the Atlantic?

Ans. I do.

3d. At whose dock did the Ogdensburgh stop?

Ans. The Ogdensburgh stopped at Mr. Scott's dock, in whose employ I was.

4th. On the dock near where the Ogdensburgh, on the morning after her arrival, did you see any drawings made by the mate of the boat, representing the manner of the collision?

Ans. I did.

5th. From and to where did he represent the Ogdensburgh going?

6th. Where the Atlantic's route and place; look at diagram B, and say whether it generally represents the drawings made by McNett, the mate, on the dock.

To interrogatories 5 and 6—

Ans. That McNett, the mate, represented by the draft, that the Ogdensburgh was going from Cleveland to the Welland Canal, and the Atlantic from Buffalo to Detroit, along the North Shore. I did not know McNett at that time, but he answered to that name, and represented himself as the man in charge of the vessel at the time of the collision.

7th. How did he say he expected to cross the Atlantic's course, across her bows, or astern of her, when he was explaining the cause of the collision by the lines he drew on the dock?

Ans. He said he expected to cross the Atlantic's bows.

8th. What was the reason he gave for not succeeding in getting across the course of the Atlantic?

Ans. The reason he alleged why he did not, was that at first he supposed he had ample time to cross the course of the Atlantic, but as he approached the Atlantic, and came very close, he discovered that she had changed her course and turned to the right, and thus gave the propeller a longer distance to run.

9th. What did he say about ringing the bells to stop just before the collision, and what was the effect?

Ans. He said he rung the bell to stop her engine, but she was under so much headway that he had not time to stop her before she struck the Atlantic.

10th. What did he say about the kind of light he saw when he first saw the Atlantic, and did the lines drawn by him on the dock cross each other?

Ans. He said he saw a red light when he first saw the steamer Atlantic, and his course lay across the course of the Atlantic as shown in the diagram marked Exhibit B, hereto attached, which is similar to the one McNett himself drew on the dock.

11th. Who gave McNett the material with which he made the marks on the dock, and what was it, and how many times did you see McNett drawing such lines?

Ans. Capt. Buel gave McNett a piece of chalk with which he made the diagram on the dock. I saw him draw such lines three or four times in answer to questions put by bystanders in relation to the cause of the collision.

12th. Was McNett asked on the dock why he did not turn out when he saw the red light of the Atlantic, or to that effect?

13th. What was his reply? and what circumstances (if any) impress these facts on your mind?

To interrogatories Nos. 12 and 13—

Ans. McNett was asked this question by several persons. He answered that he was on his right course to the Welland Canal, and that the Atlantic was not on her course at the time of the collision,

having changed shortly before, and he considered it to be the Atlantic's duty to keep out of his way. (Sailors expressed their astonishment that he did not turn to the right when he saw the red light, and from the representations of McNett, and from the appearance of the bows of the propeller, which were turned one side.) Respondents' counsel objects to all of the above answer enclosed in brackets, being declarations of third persons.

14th. How long have you been acquainted with Capt. Petty, and did you see him on that morning?

15th. Where did you see him first, and what was his condition and appearance?

To interrogatories Nos. 14 and 15—

Ans. I knew Capt. Petty two years previous to the time of the collision. I saw him that morning, first on the propeller, and then on the dock. His head was bound up, and he appeared very feeble, and was assisted by one or two persons up to George J. Maton's office.

Cross-examined by Respondents' Counsel.

1. What were you engaged in on the morning the propeller came to the dock at Erie?

Ans. I do not remember that I was engaged in anything in particular at the time.

2. Was there not a great deal of confusion and excitement on the dock at that time?

Ans. There was.

3. Do you wish to be understood that you recollect distinctly all that was said that morning by Mr. McNett?

Ans. I do not.

4. Did you at that time know Capt. Richardson of the propeller?

Ans. I did not know him before that morning. I knew him that morning from persons talking with him as the captain.

5th. Mr. McNett made the drawings in explanation and vindication of the course of the propeller, showing that the collision was caused by the fault of the Atlantic.

Ans. He did, but it had no effect upon sailors; as he could not convince them by the diagram and explanations.

6. Did you have an interview with Mr. Emmons, or any other attorney or agent of the owners of the Atlantic in Erie last winter?

Ans. I did; with Capt. Gardner, Mr. Emmons, and another person.

7. During the conversation with Mr. McNett on the dock, did he not state that he checked the speed of the propeller as soon as he discovered that the steamboat had changed her course?

Ans. Do not recollect that he did; but I recollect that he said he checked her speed a short time before the collision. He rung her bell, but did not have time to check her speed much.

8. Did he not say he ran with abated speed some little time before he gave the signal to stop and back?

Ans. I do not remember that I heard him say so.

9. Did he not say that when he first made the Atlantic's lights, he saw them over his starboard bow or at his right hand?

Ans. I do not remember that he did.

Re-examined.

1. You say in cross-examination that McNett drew the diagram to justify the course of the propeller, and insisted the Atlantic was wrong. State in what he alleged her fault to consist.

Ans. He alleged that the fault of the Atlantic consisted in this, that she changed her course previous to the collision.

2. And were questions asked by seamen standing around, why he did not port or keep to the south of the steamer when he saw the red lights three or four miles off, and what was the reply McNett made to such questions? (To interrogatory No. 2, respondents' counsel objects.)

Ans. Questions were asked as indicated in the interrogatory. He answered that he thought he had plenty of time to cross the bows of the steamer, before she came up, and he should have done so if she had not changed her course.

R. O'BRIEN.

Dep'n of S. Perley.

1st. What is your age, occupation, and residence, and how long have you been a resident of Erie, and how long an editor of a newspaper?

Ans. My age is forty-eight; am a printer; reside in Erie, where I have resided for fifteen years, during all of which time I have been an editor of a newspaper.

2d. Do you remember the occasion of an inquest being held in Erie on the body of a child whose death was caused by the collision of the Atlantic and Ogdensburgh in August, 1852?

Ans. I do. I was not a member of the coroner's jury, but was present for the purpose of preparing an article for my paper which I subsequently published.

3d. State what he said in regard to the respective courses of the Atlantic and Ogdensburgh, and whether they lay across each other or not, and look at the diagram and say if it generally represents McNett's evidence?

Ans. A man represented to be of the name of McNett was examined in relation to that matter. He stated that the propeller was from Cleveland, and bound to a point not far above Buffalo, and the steamer bound from Buffalo to Detroit. I think that what McNett stated was in answer to questions put to him, he did not make a gratuitous statement. I think exhibit B shows the general courses of the vessels as I understood from his statements. The courses as

described by McNett lay across each other in the vicinity of Long Point. My impression was that he was going to the Welland Canal.

4th. What question did Mr. Walker or Mr. Kelso of the jury ask about turning to the right 3 or 4 minutes before the collision and its effect, and what was his reply?

Ans. I recollect that one of those gentlemen asked him why he did not change his course sooner, and what the result would have been. I recollect that he admitted that if he had changed his course or rung the bell two or three minutes sooner, I do not recollect which, the collision would not have taken place. He first stated that he had rung the bell or changed his course about three minutes before the collision, and stated if he had rung it two minutes sooner than he did it would have been avoided. I supposed the order to change the course was given by ringing the bell. The question put was in relation to changing the course. That was the whole gist of the matter in relation to their relative objections to turn out.

5th. What distance off did he see the Atlantic, and did he see any colored lights when he first saw the Atlantic?

Ans. I feel quite certain that he said he first saw the Atlantic three or four miles off; something was said about his seeing colored lights. He saw two colors, I do not recollect what they were.

Cross-examined by Respondents' Counsel.

1. Were there not a great many questions put to McNett by different members of the jury, and was there not considerable excitement on that occasion?

Ans. There were several questions put by different members of the jury, but they were mainly put by Mr. Walker and Mr. Kelso. These was not among the jury but was about the town.

2. Did you have an interview with Mr. Emmons or any other attorney or agent of the owners of the Atlantic in Erie last winter?

Ans. I did with Mr. Emmons at Brown's Hotel last winter.

3. During the testimony of Mr. McNett before the inquest, did he not say that he checked the speed of the propeller some time before the collision?

Ans. He did, two or three minutes.

4. Did he not say that he ran with abated speed some little time before he gave the signal to stop and back?

Ans. He did not.

5. Did he not say that when he first made the Atlantic's lights he saw them over his starboard bow, or at his right hand?

Ans. He did; that is, they were north of him. He saw them off three or four miles.

Re-examination.

How near the steamer did McNett be was when he first attempted

to check the speed of the propeller, and up to what period was he expecting to, and attempting to cross the course of the Atlantic?

Ans. He was so near that the danger of the collision had become imminent, and if he did not it would take place.

SAMUEL PERLEY.

Deposition of Simon M. Dunn.

1st. What is your age, occupation, and residence, and how long have you resided in Erie?

Ans. My age is seventy-two years, residence, Erie, where I have resided since 1797, that is in Erie, and its immediate vicinity. I am now the Coroner of the County of Erie, Penn'a.

2d. Do you remember the occasion of the visit of the propeller Ogdensburgh to Erie after her collision with the steamer Atlantic in Lake Erie, in August, 1852?

Ans. I do.

3d. What office did you hold at that time?

Ans. I was coroner of the County of Erie.

4th. In your official capacity on that day, was you called upon to investigate the cause of the death of a child brought into Erie by said propeller, and did you also at the time proceed to investigate the causes of said collision?

Ans. I was, and did.

5th. Whom did you summon on said jury? Please state the names, and the reasons of your summoning some of the principal ones?

Ans. I summoned John H. Walker. He was summoned first, and made foreman as the law directs. Cha's W. Kelso, Wilson Laird, Alfred King, William A. Brown, W. W. Loomis, Lewis S. Dunn, Jonas Gunnison, David Shirk, and others whose names I do not now recollect were summoned on the jury.

(Respondents' counsel objects to that portion of the interrogatory which inquires the coroner's reason for summoning particular jurors, or that particular jury.)

From the information I had of the case, I supposed it to be one of great importance, growing out of great carelessness, and I did not know but there might be some law questions growing out of it. I consequently summoned some of our best attorneys.

6th. Was De Grass McNett, the mate of said propeller, sworn and examined before the jury?

Ans. He was.

7th. Please state where he said the propeller Ogdensburgh was going, and where the steamer Atlantic was going, and whether those courses crossed each other?

Ans. He said she started from Buffalo, was on her course on the north shore of the lake to Detroit. The propeller was going from the south shore to the Welland Canal. I think started from Cleveland. Their courses cross near Long Point.

8th. How far off did he see the Atlantic as he stated, and what lights did he see when he first saw the Atlantic?

Ans. He first said he saw her from four to five miles; then afterwards he said perhaps not so far, from three to four miles. Some of the jury asked him how he knew she was a steamboat. He said he knew by her lights. There was something said about lights—a red light. It strikes me that he said he saw a red light.

9th. What did he say in reference to passing the bows of the Atlantic, and his reason for not being able to do so?

Ans. He said he expected to cross her bows, but the Atlantic bore away to the right, and he was unable to do it.

10th. What was asked in reference to giving the order to port 3 or 4 minutes before the collision, and what its effect would be in reference to the collision, and what was his reply?

Ans. The question was asked by some of the jury whether, if he had given the order to port his helm four or five minutes sooner, the collision would not have been avoided. He answered that it would; and then he was asked why he did not do so. He answered that it was the steamer's business to keep out of the way.

Cross-examined by Respondents' Counsel.

1. Is your recollection distinct or indistinct of what took place before the inquest?

Ans. My recollection is correct. Some things took place that I do not pretend to recollect.

2. Did you have any interview with Mr. Emmons, or other attorney or agent of the owners of the Atlantic at Erie? if so, with whom, and how often?

Ans. I had an interview once last winter with Mr. Emmons, and once now with Mr. Gardner and Mr. Newberry.

3. Did you not, in the fall or fore part of winter, meet with other persons at the office of Charles W. Kelso to consult upon this matter?

Ans. I did. Mr. Emmons was not present at that consultation.

4. Were you not employed by Capt. Gardner, or some other one, as agent of the owners of the Atlantic to look up witnesses in and about Erie in this case?

Ans. I was requested by Capt. Gardner to call my jury together at Mr. Kelso's office. I did so with a part of them.

5. Have you not been employed or engaged in looking up and producing witnesses for the last four days in this matter?

Ans. I have. I did it from a request merely as a messenger. I have not conversed with them as to what they would testify to.

6. During the testimony of McNett before the inquest, did he not say that he had checked the speed of the propeller some time before the collision?

Ans. He did when he came within three or four rods.

SIMEON DUNN.

Dep'n of Wm. Hinton.

1st. What is your age, residence, and occupation, and how long have you been engaged as a mariner, and in what service, and in what capacity, and on what vessel are you now?

Ans. My age is forty-five. I reside in Erie County. I have been a mariner for twenty-eight years; for twenty-four years I was engaged in the merchant service on board of steamers as commander or chief mate. I am now, and have been for several years last past, engaged as pilot on the United States steamer Michigan. The whole of this period of service has been on the lakes.

2d. Suppose, in command of a steamer running from Buffalo to Detroit, in the night, you should make two small white lights from ½ to ¾ of a point over your larboard bow, the wind being very light, what course would you take?

Ans. I would port my helm; such is my invariable rule when I see anything over my port bow.

3d. Suppose yourself in command of a steamer, in the night time, running from 12 to 14 miles an hour, and suppose, from the absence of signal lights, or from any other reason, a propeller should approach from within 4 to 6 lengths off your larboard bow before you discovered she was not a sail vessel, and if she was running from four to seven miles an hour, and heading across the course of your vessel, so that if you stop your engine the collision would occur, what, as a prudent seaman, would you do under the circumstances?

Ans. Seeing a craft from two to three points off the port bow, I should port my helm and keep on. I had a circumstance of the kind a few nights ago, and in which I stopped my engine and found it injudicious, and instantly started it again.

4th. And under the circumstances, what should the commander of the propeller do?

Ans. In a case of the kind mentioned, both vessels should port their helm. The vessel which is more likely to strike the other should port her helm and stop her engine. We have a good deal of trouble in passing propellers on the lake.

5th. If, from a point 4 or 5 miles off Fair Port, you steer on a course east-northeast from about 7 o'clock in the evening, at the rate of 8 miles an hour, where will your vessel be at 12 o'clock at night, and at 2 o'clock, steering the same course, and how far from Long Point?

Ans. At 12 o'clock, a vessel running such course and speed would run down the south shore in towards the land; and that course would not clear the land; far enough extended, it would run them aground.

6th. If, from 4 to 5 miles off Fairport, at 7 o'clock, she should steer east-northeast until 12 o'clock, and then haul off northeast by east, where would your vessel be at 2 o'clock, and how far from Long Point?

Ans. I should think she would be off the foot of the Peninsula at Erie, and steering just clear of it.

7th. If, from a point off Ashtabula 8 miles, at 6 o'clock, you steer east-northeast until 12 o'clock, at the rate of 8 miles an hour, where will your vessel be?

Ans. Not far off from abreast of Walnut Creek, ten miles west of Erie, and about seven or eight miles off land, and would clear the Peninsula at Erie about two miles. This is a course we would not steer unless we wished to hug the land, and running at this speed, and steering these courses, she could not be nearer than thirty miles to Long Point at 2 o'clock A. M.

8th. And if under the circumstances mentioned in No. 7, at 12 o'clock she should steer northeast by east until 2 o'clock, where would she be, and how far from Long Point?

Ans. Four or five miles east of Erie, and about the same distance from land, and from twenty-five to thirty miles from Long Point.

9th. And if from 8 miles off Ashtabula at 8 o'clock in the evening, you steer northeast by east, running at the rate of 8 miles an hour until 2 o'clock, where will your vessel be, and how far from Long Point?

Ans. That would bring her about eight miles from land, and below the Peninsula at Erie.

10th. What is the distance from Ashtabula to Long Point?

Ans. I should think about eighty miles.

11th. Do you know Capt. Petty, who was in command of the Atlantic at the time of the collision? How long have you known him, and what was his character as a seaman?

Ans. I know Capt. Petty very well. I think I knew him previous to the collision about eight or nine years. Three years previous to the collision, he sailed with me as second mate part of a season, about two months. We always considered Capt. Petty a smart young man; was a smart steamboat officer. I never had any better with me.

12th. Suppose you were in command of a propeller, on your way from Cleveland to the Welland Canal, and you should make a red light 2 or 2½ points on your starboard bow, 1, 2, 3, 4, or 5 miles off, what would be your duty as a seaman, and under any circumstances would you attempt to cross her bow?

Ans. I would not attempt to cross her bows under any circumstances. If I saw a red light my duty would be whenever I saw the red light to port my helm, show my red light and pass.

(Mr. Marshal, who appears for respondents (Judge Spalding being compelled to leave on Saturday) declines to cross-examine, because the evidence of Capt. Henton is upon a different subject from which it was stated the evidence would be upon when Judge Spalding left. Mr. Emmons for libellants agrees that the respondents, giving libellants reasonable notice of the time and place, may still, at any time before the trial, cross-examine the witness, Henton.)

WILLIAM HENTON.

At the request of Mr. Emmons, counsel for the libellant, the commissioner appends the following statement of facts as recollected by the commissioner. That until Saturday, the 16th, at 2½ o'clock P. M., Judge Spalding appeared before the commissioner and cross-examined for respondents, but at that time being compelled to leave or unable to stay longer, he inquired of Mr. Emmons if he had got the general scope of the subject of the testimony that would be taken before the commissioner, or whether witnesses would be examined on other subjects. Mr. Emmons said he supposed he had, or at least he knew of no other.

BENJAMIN GRANT.
U. S. Commissioner.

Schedule A.

(For diagram see original, page 457.)

This is the paper referred to by Charles W. Kelso, Esq., in his testimony, as exhibit A.

BENJAMIN GRANT,
U. S. Commissioner.

Exhibit B.

(For diagram see original, page 458.)

This is the paper referred to by John Zimerly in his testimony as schedule B, and also by the other witnesses whose names are hereto attached.

BENJAMIN GRANT,
U. S. Commissioner.

J. ZIMERLY.
LEWIS S. DUNN.
W. W. LOOMIS.
GEORGE BERRIMAN.
R. O'BRIEN.
SAMUEL PERLEY.

Deposition of George W. Bon, taken before John C. Grannis, United States Commissioner for the Northern District of Ohio, at his office in the City of Cleveland, on the 27th day of February, A. D. 1855.

Dep'n of G. W. Bon.

Question by Capt. Gardner, agent for libellants.

Ques. What is your age, occupation, and residence?

Ans. I am twenty-seven years of age; live at Erie, Pa.; am a ship-carpenter by trade; work at that winters, and sail during the sailing season.

Ques. How long have you sailed, and how long have you been master of a vessel?

Schedule A.

N° 166. Page 457.

Ans. Sailed twelve or thirteen years, been master of a vessel four years.

Ques. Do you remember the time of the collision between the steamboat Atlantic and the propeller Ogdensburgh, in the year 1852, on Lake Erie?

Ans. Yes, sir.

Ques. Was you at Erie when the Ogdensburgh came into that harbor on the morning of the collision?

Ans. Yes, sir.

Ques. Did you go on board the propeller Ogdensburgh on the day she came into Erie, after the collision and landed her passengers?

Ans. I did.

Ques. Did you see De Grass McNett, the mate of the propeller Ogdensburgh, at Erie on the day after the collision with the steamer Atlantic, on board of the Ogdensburgh, or on the dock where she lay for repairs?

Ans. Yes, sir.

Ques. Did you hear him say, or see him do anything in regard to the collision on board of the Ogdensburgh, or on dock where she lay? if so, state fully what he said, and what he did.

Ans. I went down about noon to the propeller, and saw McNett, the man who represented himself to be the mate of the Ogdensburgh, describing the courses of the boats on the dock with a knife; some of them could not get the right hold of it, and he asked for a piece of chalk, which I gave him, and then he marked with the chalk the courses of the boats before the collision. There were several sailor men standing around, and several others; he marked the courses of the boats, and they remarked, that if that was the way of it, he was a damned rascal, a damned fool, and ought to be hung; and I was pretty much of that opinion myself.

Ques. How did McNett represent the courses of the two vessels as they came together? did he represent either of them crossing the others bows?

Ans. He took the chalk and marked the north shore, and then marked the steamboat Atlantic, and then marked the propeller as coming from the south shore to the Welland Canal. He said he saw the red light of the Atlantic two or three miles off, and thought he could cross her bows before she could come up to them, and would have done so, if the Atlantic had not ported her wheel and shot off to the right of the Ogdensburgh as she was coming up, and that making the distance further for her to run. She fetched up against her, and that that was what caused the collision.

(The witness said during the last answer that McNett said he saw the lights of the Atlantic, and Capt. Gardner interposed and asked the witness what kind of a lights, and the witness answered, "red lights.")

Ques. Did De Grass McNett, the mate of the Ogdensburgh, at the same time and place, say anything about the speed of the Og-

densburgh at the time of the collision with the Atlantic? if so, state what he said.

Ans. He said he was going with full head of steam, that just prior to the collision they stopped her and backed her at the same time, but being under so much way that it did not check her headway any.

G. W. BON.

Deposition of Lester H. Cotton, taken before Amelian Conkling, United States Commissioner, and Clerk of the District Court for the Northern District of New York, on the 12th day of October, A. D. 1854, at the City of Buffalo.

Dep'n of L. H. Cotton.

1st. What is your age, occupation; how long have you been a mariner; and how long an officer of a steamboat; and how long master?

Ans. I am fifty years old; I am a sailor. I have been a sailor 22 years. I have been an officer of a steamboat. I was an officer of steamboat from 1833 till 1849, and from 1834 to 1849, I was master. I am now master of the Western World, and have been about one week.

2. If you were in command of a steamer in a still night going from Buffalo to Detroit, and you should make a white light a half or three-quarters of a point over your larboard bow, what would you do?

Ans. I should put my wheel aport.

3. If you were in command of a steamer in a still night running from twelve to fourteen miles an hour, and if from the absence of signal lights, or from any other cause, a propeller should approach you within four or six lengths, and from one to three points off from your larboard bow before you discovered she was not a sail vessel, and if she was running from three to seven miles an hour and heading across your course, so that if you stop your engine a collision is apparently inevitable, what would you do?

Ans. I should put my wheel aport, and hard aport, and let the engine work as fast as it could to get out of the way.

4. If you were in command of a steamer with five hundred passengers on board, and after a severe collision, with your boat cut clear into the main hatch, and you were satisfied your vessel must sink, and you were only from one to three miles from shoal water, what would you do, stop in deep water, or head your boat for shore?

Ans. I would head my boat for shore.

5. Were you acquainted with the steamboat Atlantic, and what, in your opinion, are the proper places for the officer of the deck on board of steamers of her class?

Ans. I was acquainted with the steamer Atlantic. The proper

places are, in or about the pilot-house, or on the middle deck forward of the pilot-house.

6. Would you consider it bad seamanship for the officer of the deck of such a steamer from time to time during his watch to step into the pilot house, examine his compass, and for a few moments to look out ahead from the windows? When the pilot house is as elevated and has as commanding a view as that of the Atlantic, and during the year 1852, was it not customary to do so?

Ans. In reply to the first part of the question I say no. On the contrary, I should deem it a neglect of duty if the officer of the deck did not look in occasionally at his compasses to satisfy himself that the vessel was on her course, and that the compasses were working correctly, for the reason that many times something may attract the compasses, and not be noticed by the wheelsman, and might be detected by the officer. In reply to the latter part of the question, I say I was not on the lake in 1852.

7. Is it, and has it been, customary on the lakes for steamers to carry an additional lookout other than the officer of the deck and wheelsman?

(Question objected to because the witness is called upon to give evidence upon a question of law, and answered subject to objection. Objection withdrawn.)

Ans. It has not been customary, and is not now. The witness says he wishes to answer further, and says: While I was first officer of a steamer myself it was never customary to have a second lookout, or any person to assist in keeping the watch.

8. In a night when you can see a light from two to four miles off, would it be bad seamanship to leave the deck in charge of the second mate, and is it usual and customary so to do?

Ans. It would not be bad seamanship, and it is usual and customary so to do.

9. Are there any circumstances in which, when you make a red light of an approaching steamer, you would not show her your red light in passing?

Ans. There are none.

10. If you were in command of a propeller, on your way from the south shore to the Welland Canal, and you should make the red light of a steamer from two to two and a half points over your starboard bow, what would you do? Would you attempt to cross her bows, or would you port your helm, show your red light, and go ahead with confidence?

Ans. I should port my helm.

11. Suppose yourself in command of a propeller, going from the south shore to the Welland Canal, and you make the red light of a steamer two or two and a half points on your starboard bow, and you know her to be a North Shore boat on her way from Buffalo to Detroit, what would you do? attempt to cross her bows, or port your helm, show your red light, and go ahead with confidence?

Ans. I should port my helm.

12. If you were in command of a propeller on a still night, and should make a light two and a half points over your starboard bow, supposed to be two or three miles off, and such light does not close, on observation, in on you, would it be good seamanship, or in any way necessary to slow your engine, and is such practice usual or not?

Ans. It would not be necessary to slow the engine, and I do not think it is customary.

13. Suppose yourself in command of a large class passage steamer like the Atlantic, she well lighted and manned, the weather calm, the night such that a light may be seen from one and a half to three miles, you make the light of what you suppose a sail vessel a point or three-fourths of a point on your larboard bow, and on porting you readily opened the light a point or three-fourths of a point more, where the light continued to bear, would good seamanship require you to slow your steamer, and is it ever done, to pass a vessel in such circumstances?

Ans. It would not be necessary, and I don't think it is done.

14. In such circumstances, when you show your red light, do you rely with confidence on the approaching craft keeping her course, or porting her wheel, and going to the right?

Ans. Yes, I do.

15. And if the approaching craft is a propeller, what is her duty?

Ans. To port her wheel.

16. Is it the special duty of the officer of the deck, whether it be the master, the 1st or 2d mate, to look for vessels, and direct the navigation of the steamer? Is such officer, when competent, sufficient, and all which, according to the usages of the western lakes, are kept on good first-class steamers? and when such vessels are, like the Atlantic, provided with a separate watchman, is there any liability on the part of the officer of the deck to be called to look to other parts of the vessel? If any extraordinary emergency should occur to call him away, would he not call some other officer to the deck?

Ans. 1st. It is the duty of the officer of the deck to see to the navigation of the vessel, and look out for other vessels.

2d. Such officer is sufficient, and all that is kept on first class steamers.

3d. There is liability of the officer to be called away to other parts of the vessel.

4th. If he is called away, prudence would dictate that he should call another officer, but he frequently does leave without calling another officer.

17th. If the second mate is a competent seaman, is it in conformity with the usages and customs of navigation to have him, when the weather is calm, the night such that a light may be seen one and a half to three miles off, to intrust the deck to him? and is this not far more

common than for the captain, in good weather, to stand watch in the night?

Ans. It is.

18. How far, in an ordinary night, can the colored signal lights be seen?

Ans. From three to five miles.

19. If the colored signal lights in an ordinary night cannot be seen more than one or two miles off, would you consider them sufficient?

Ans. I should not.

Cross-examined.

The true course, the air line course, from Buffalo to Point Pelee is W. S. W., though I don't wish to be understood that is the course as steered by the compass always. In going to Point Pelee we steer by the compass so as to run on the air line. Such is the usual practice with the north shore steamers.

Ques. If you are on board a steamer bound from Buffalo to Detroit on the North Shore route, on the course mentioned by you, and you make the light of a propeller sailing N. E. and by E. half a point over your larboard bow, the steamer going between 12 and 15 miles an hour, and the propeller between three and seven miles an hour, and each vessel continues its course and speed, would a collision occur, assuming the propeller and steamer to be one mile apart?

Ans. No; I do not think there would be a collision.

Ques. Suppose yourself on a steamer on the course before mentioned, and you make the light of the propeller one-half point over your larboard bow, and upon the same course above mentioned, and each with the speed above described, and both continue their courses, the vessels being, in this case, a half or a mile apart, would a collision occur?

Ans. I am inclined to think not.

Ques. Under these last circumstances, how would the vessels pass each other?

Ans. It is a difficult question to answer without instruments; but my opinion is that they would pass each other on the larboard hand, the propeller crossing the wake of the steamer, not far under her stern. They would not be far apart, but I don't think there would be a collision.

Ques. Suppose all things exactly as specified in the last query, and upon making the light the steamer ports her helm, and immediately puts her helm hard aport, could a collision by any possibility occur?

Ans. No, sir.

Ques. Suppose yourself on a propeller coming down the lake sailing N. E. by E., and you make the light of a steamer sailing on the air line to Point Pelee, from two to two and a half points over your

starboard bow, are you to the north or the south of the track of the steamer?

Ans. I should think the propeller would be a very little to the south of the course of the steamer.

Ques. How much would the propeller sailing N. E by E. have to turn to the eastward to make her course parallel with that of a steamer running west S. W.

Ans. One point, of course.

Ques. Is it then possible for the propeller to see the steamer two points over her starboard bow, and be to the south of the steamer, there being but one point difference in their lines of passage?

Ans. With my present means of determining, I am unable to say.

Ques. Suppose the circumstances as described in the last question, and the distances between the vessels to be two miles, would the propeller then be to the north of the track of the steamer, and could a collision occur should each continue its course, the course of the propeller being N. E. by E., and that of the steamer W. S. W.?

Ans. I answer this question as I did the last.

Ques. Suppose yourself on a propeller sailing N. E. by E., and you make the light of a steamer from two to 2½ points over your starboard bow two miles off, and the steamer sailing W. S. W., having your signal lights burning bright, would it be good seamanship to port your helm and run across the track of the steamer, or would it be good seamanship to continue your course?

Ans. I think it would be good seamanship for the propeller to port her helm. That is what I should do, were I in command.

Ques. Suppose yourself on a steamer on the north shore route, sailing west-southwest, and you make the light of a propeller half a mile off, and half a point over your larboard bow, and immediately you port your wheel, and the light continues to approach, and then you put your wheel hard aport, and the light still approaches, what would good seamanship then require, the speed of the steamer being 14 or 15 miles an hour, and that of the propeller 7 or 8 miles an hour?

Ans. To keep the wheel hard aport, and run away from the propeller if possible.

Ques. Suppose the circumstances exactly as stated in the last question, but the vessels distinct from each other, only four lengths of the steamer, and the propeller's light closing in upon you fast, what then would good seamanship require?

Ans. On board of a steamer which minded her helm quick, I would still continue my wheel aport, and let my engine work; but with a boat that did not mind her helm quick, or swing quick, I would stop my engine, and such I think would be good seamanship.

Ques. Suppose you had stopped your engine, and the light should still approach, what would you do?

Ans. I should back my boat.

Ques. What is the rule of navigation between steamers on the

lakes approaching each other from opposite directions, in reference to porting the wheel?

Ans. It is customary usually to put the wheel aport.

Ques. Does that rule obtain where the angle of observation shows that if the vessels continue their course they will pass each other at a sufficient berth for perfect safety?

Ans. It does not apply always.

Ques. Suppose yourself on a propeller on a smoky night (so smoky that you have to climb up upon the mast of a steamer to see Long Point light at a distance of two miles) you going N. E. by E., and you make a light of what you suppose to be a steamer on her way to Point Pelee passage, sailing W. S. W. two and a half points over your starboard bow, and she two miles off, what would you do? continue your course, or not?

Ans. I would not, I think.

Ques. Suppose yourself sailing on the propeller N. E. by E., on a smoky night (as described above), having made the light of a steamer on her way to Point Pelee passage 2½ points over your starboard bow, and you continued your course, and that light seemed to follow on after you, and continued the angle the same as when first observed, and you thus proceed until the steamer emerges from the smoke, and running directly towards the point where you are standing on the pilot house of the propeller, what would you do, the distance between the vessels being two lengths of the steamer?

Ans. Never having sailed a propeller, I don't consider myself competent to answer the question. I don't know what the devil I should do.

Ques. In passing a vessel in the night, what is a sufficient berth for safety?

Ans. Four to six hundred feet.

L. H. CATTON.

Deposition of Abraham H. Piper, taken before Ameliau Conkling, United States Commissioner for the Northern District of New York, on the twelfth day of October, A. D. 1854, at the City of Buffalo.

Dep'n of A. H. Piper.

1. What is your age, occupation, how long have you been a mariner, and how long an officer of a steamboat?

Ans. I am thirty-one years old. I am a sailor. I have been a mariner twelve years. I am now first mate of the May Flower steamer, I have been an officer of a steamer five years.

2. If you were in command of a steamer of a still night, going from Buffalo to Detroit, and you should make a white light a half or three-fourths of a point over your larboard bow, what would you do?

Ans. I should port my wheel and go along.

3. If you were in command of a steamer in a still night, running from twelve to fourteen miles an hour, and if from the absence of

signal lights, or from any other cause, a propeller should approach you within four or six lengths, and from one to three points off your larboard bow before you discovered she was not a sail vessel, and if she was running from three to seven miles an hour, and heading across your bows, so that if you stop your engine, a collision is apparently inevitable, what would you do?

(Question objected to, 1st, as multifarious; 2d, as hypothetical, and based upon a state of facts not existing in the case.)

Answer taken subject to objection.

Ans. I should port my wheel and try to run away from her, if she was on my port bow.

4. If you were in command of a steamboat with five hundred passengers on board, and after a severe collision, with your boat cut clear into the mean hatch, and you were satisfied your vessel must sink, and you were only from one to three miles from shoal water, what would you do? stop in deep water, or head your boat for shore?

Ans. I would try and go to shore with her if I could.

5. Were you acquainted with the steamboat Atlantic, and what in your opinion are the proper places for the officer of the deck on board of steamers of her class?

Ans. I was acquainted with the steamer Atlantic. The proper place for a look out on a boat like her, is the promenade deck, the hurricane deck, or pilot house.

Ques. What part of the pilot house?

Ans. The inside.

Ques. Would it be proper outside, too?

(Question waived.)

6. Would you consider it bad seamanship for the officer of the deck of such a steamer, from time to time during his watch, to step into the pilot house, examine his compass, and for a few moments to look out ahead from the windows? Where the pilot house is as elevated, and has as commanding a view as that of the Atlantic, and during the year 1852, was it not customary so to do?

Ans. I consider it his duty to do so, and it was customary then and now. (At this point, Mr. McNett objected to having Capt. Gardner read the questions to the witness, and insisted that the questions should be read by the commissioner. This the commissioner assented to, and Mr. Gardner declined, and the testimony was proceeded in under the objection so taken.)

7. During the year 1852, was it customary on the lakes, for steamers to carry an additional look out, other than the officer of the deck and wheelsman, and is it now, except upon those vessels that run only in the night time?

Ans. It was not at that time, and I think it is not now, with the exception of probably one or two boats.

Ques. Do those one or two boats to which you allude, run in the night, or in the day?

Ans. They run both in the night and in the day. I referred to the Crescent City and Queen of the West.

8. In a night when you can see a light from two to four miles off, would it be bad seamanship to leave the deck in charge of the 2d mate, and is it usual and customary so to do?

Ans. It would not be bad seamanship. It is a thing which has always been practised with me when I was second mate. It is usual and customary to do so.

9. Are there any circumstances in which when you make the red light of an approaching steamer, you would not show her your red light in passing?

Ans. There are none.

10. If you were in command of a propeller on your way from the south shore to the Welland Canal, and you should make the red light of a steamer, from two to two and a half points over your starboard bow, what would you do? would you attempt to cross her bows, or would you port your helm, show your red light, and go ahead with confidence.

Ans. On seeing her red light, I should port my wheel and pass to the right. I would not attempt to cross her bows.

11. Suppose yourself in command of a propeller going from the south shore to the Welland Canal, and you make the red light of a steamer, two or two and a half points on your starboard bow, and you know her to be a north shore boat, on her way from Buffalo to Detroit, what would you do? attempt to cross her bows, or port your helm, show your red light, and go ahead with confidence?

Ans. I should port my wheel and go by her.

12. If you were in command of a propeller, on a still night, and should make a light two and a half points, over starboard bow, supposed to be two or three miles off, and such light does not, on observation, close in on you, would it be good seamanship, or in any way necessary to slow your engine, or is such practice usual or not?

Ans. I should not slow my engine.

13. Do sail vessels frequently show two white lights in the rigging?

(Question objected to as immaterial, and answered subject to objection.)

Ans. We frequently see two bright lights on vessels. It is difficult to say where they are. From the character of the lights, you might suppose them to be in the rigging.

14. Suppose yourself in command of a large class passage steamer like the Atlantic, she well lighted and manned, the weather calm, the night such that a light may be seen from one and a half to three miles, you make the light of what you suppose, a sail vessel, one or three-fourths of a point on larboard bow, and on porting you readily opened the light a point or three-fourths of a point more, where the light continued to bear, would good seamanship require you to slow

your steamer, and is it ever done to pass a vessel in such circumstances?

Ans. If I ported my wheel, and opened that light two points on my port bow, I would not slow my engine.

15. In such circumstances, when you show your red light, do you rely with confidence on the approaching craft keeping her course, or porting her wheel, and going to the right?

Ans. I should.

16. And if the approaching craft is a propeller, what is her duty?

Ans. Her duty is to port when she sees my red light, and go to the right.

17. Is it the special duty of the officer of the deck, whether it be the master, the first or second mate, to look for vessels, and direct the navigation of the steamer? Is such officer, when competent, sufficient, and all which, according to the usages on the western lakes, are kept on good first class steamers, and when such vessels are, like the Atlantic, provided with a separate watchman, is there any liability on the part of the officer of the deck to be called to look to other parts of the vessel? If any extraordinary emergency should occur to call him away, would he not call some other officer to the deck?

(Question objected to on the ground that a condition of facts is assumed which did not really exist at the time.)

Ans. 1st. Whatever officer there is there it is his business to see to the navigation of the boat and to look out for vessels too.

2d. He is sufficient, and all that is necessary, and all that is kept on first class steamers on these lakes, with the exception of two boats. The boats I have already mentioned.

3d. He is not likely to be called away unless something serious occurs.

4th. If he is called away, it is his duty to call some officer to take his place.

18. If the 2d mate is a competent seaman, is it in conformity with the usages and custom of navigation, to leave him, when the weather is calm, the night such that a light may be seen one and a half to three miles off, to intrust the deck to him, and is this not far more common than for the captain, in good weather, to stand watch in the night?

Ans. 1st. It is customary in my experience.

2d. It is more common as far as I know.

19. How far should colored signal lights be seen by approaching vessels, in an ordinary night?

Ans. A good signal colored light should be seen from four to five miles in an ordinary night, not foggy. By an ordinary night I mean a night not foggy.

20. If signal lights (colored) are not burning, so as to be seen

one or two miles off, in an ordinary night, would you consider them proper lights for a propeller or steamer?

Ans. I would not.

Cross-examined.

Mr. McNett insists that he should have possession of the interrogatories, or a copy of them, in order that he may intelligibly cross-examine the witness. To which Mr. Gardner objected, without giving any reason. And thereupon the commissioner decided that the request of Mr. McNett was reasonable, and declined to proceed with the examination unless the interrogatories, or a copy of them, were furnished for the cross-examination. The interrogatories were put into the hands of Mr. McNett, and the examination was proceeded in.

The usual course of steamers running from Buffalo to Detroit, on the North Shore route, is southwest and by west one-quarter west. I mean to speak exclusively of what are called North Shore boats. That is the course steered by compass, and not the air line course. The air line course is W. by S. ¾ S. The steamer actually runs on the air line, by the compass course I have specified. Running on this course, we pass about two miles from Long Point. The objection is taken by Captain Gardner, that the witness should be examined only upon such points as were embraced in his direct examination. The answers are taken subject to such objection. The duty of steamers meeting each other, dead ahead, running on the same line, is to port their wheel and pass to the right. If I, going on a steamer, W. by S. ¾ south, meet a steamer, 2 points over my larboard bow, at the distance of five miles off, it is my duty to keep along on my course. Under the same circumstances, at the distance of two miles, I should also keep along on my course. I do not consider myself a scientific navigator, that is to say, to take longitude, latitude, declination, &c. A vessel, two miles off, and two points over the larboard bow, running on a parallel course, will pass on, meeting at a distance of half to three-quarters of a mile.

Ques. If you are on a steamer on her course to Detroit, from Buffalo, on the north shore, and make the light of a propeller half a point over your larboard bow, and sailing N. E. and by E. at the distance of two miles off, the steamer going between fourteen and fifteen miles an hour, and the propeller between seven and eight miles an hour, and each vessel keeps its course and speed, can a collision occur?

Ans. If they both keep their course they will clear each other. But making that light the one-half point on the larboard, and being that close to me, I would port and show my red light, I being on the steamer.

Ques. Under the circumstances referred to in the last question, if instead of keeping your course, you should port your helm and the propeller keep its course, could a collision occur by any possibility?

Ans. Yes, sir, it is a possible thing.

Ques. Suppose a steamer is on the course you have mentioned, for Detroit, and makes the light of a propeller half a point over her larboard bow, and the propeller is sailing N. E. and by E., how will the propeller make the light of the steamer?

Ans. She will probably make it one point on her starboard bow, being one mile distant.

Ques. Suppose you are on a propeller sailing N. E. and by E., for Gravelly Bay, and make the light of a steamer on her way to Detroit, from two to two and a half points over your starboard bow, what would you do?

Ans. I should look and see what light she showed, and if she showed a red light I should port, and if a green one, I would keep on my course. If she was on her course to Detroit, the course I have mentioned, the steamer should show her red light.

Ques. Is it possible for a propeller sailing N. E. and by E., and a steamer sailing on the course you have specified for Detroit at the distance of one mile off, to see the red light of the steamboat?

Ans. It is, and it would be impossible to see the green one.

Ques. Suppose you made a light upon a stationary object in the water at a distance of five miles off, two points over your larboard bow, and you go on and keep the light two points over your larboard bow, how far will you pass from the light?

Ans. You won't pass it all.

Ques. Is S. W. by W. $\frac{1}{2}$ W. a proper course to sail on the north passage from Buffalo to Detroit?

Ans. I say it is not.

Ques. Would that course take you too near or too far off from Long Point?

Ans. Making that an air line course would carry you too far off from Long Point. I want to be understood that S. W. by W. $\frac{1}{2}$ W. is not the proper air line course.

Ques. Suppose you were on a steamer on your true course from Buffalo to Detroit on a night that is so smoky that you are obliged to climb to the mast head to see Long Point light, when you are abreast of it, and you make the light of a propeller half a point over your larboard bow, and that light nears you, and you cannot tell what the light is, would it not be your duty to slack your speed?

Ans. It would be my duty in the first place to port, and then if there was no alternative to avoid a collision but to stop, I should stop.

Ques. Having ported your helm as you have mentioned in your last answer, and the vessels still approach each other, what then would you do?

Ans. I should stop, providing that I was sure my stopping would avoid a collision.

Ques. Having ported your helm, and then put your helm hard aport, and the vessels still approaching, what would you do?

Ans. If there was no chance of running away from her I should stop my boat. If I saw that a collision would be certain by stopping my boat, I should continue right on. I mean to say, that if by stopping a collision would be certain, and there would be a chance of avoiding it by going on, I should go on.

Ques. Suppose yourself on board a steamer from Buffalo to Detroit on the north shore route, sailing the course you have specified, and you should make the light of a propeller a half a point over your larboard bow, and a half a mile off, and you should port your helm, and then hard aport you helm, and she should still approach you, would it be good seamanship to continue on without abating your speed?

Ans. If she was a half a mile off I should continue on. If she was closer than that I should stop. But in my opinion there might be as good seamanship in keeping on as in stopping, where I was confident that a collision would not be avoided by stopping.

Ques. Suppose the circumstances to be the same as supposed in the last question, but the night so dark that you cannot determine what the object is upon which the light is, and you judge that the light is a half a mile off over a half a point on your larboard bow, and you port your helm and then hard aport your helm, and the light still approaches you, would it be good seamanship to continue on without abating your speed?

Ans. It would be good seamanship to stop, to check the speed of the boat.

Ques. In such a night as mentioned in the last question, having checked your boat, and you still see the light approaching you, what would good seamanship require you to do then?

Ans. I should stop.

Ques. Having stopped, and the light still approaching, what would you do?

Ans. I should probably reverse my engine; that would be good seamanship, and a proper course.

Ques. If you are sailing on a steamer S. W. by W. to Detroit, and a propeller coming down the lake sailing northeast and by east, makes your light from two to two and a half points over her starboard bow, would she be north or south of your track?

Ans. If she was two miles off I think she would be about ahead.

Ques. Suppose a steamer, sailing from Buffalo to Detroit on the north shore, W. by S. ¾ S., to make a light of a propeller at a distance of a mile off, half a point over her larboard bow, and the propeller to be sailing northeast and by east, the steamer going between 14 and 15 miles an hour, and the propeller between seven and eight miles an hour, and the steamer, upon making the light, port her helm, and then put her helm hard aport, both vessels continuing their speed, could a collision occur?

Ans. I think not.

Ques. Suppose the circumstances as in the last question, except that the distance is a quarter of a mile.

Ans. It would then be possible for a collision to occur.

Ques. Suppose that a steamer is on her way to Detroit, west by S. ¾ S., and a propeller coming down the lake, and sailing N. E. and by E., the steamer going between 14 and 15 miles an hour, and the propeller between 7 and 8 miles an hour, if both continue their courses, can a collision occur, supposing them a mile apart, and the propeller to make the light of the steamer from 2 to 2½ points over her starboard bow, and each vessel continues its course and speed, could a collision occur?

Ans. I think not.

Ques. If the propeller should continue its course, what would the steamer have to do to produce a collision?

Ans. She would have to port a little.

Ques. Is west by S. ¾ south the proper course to steer from Buffalo to Detroit on the North Shore route?

Ans. I never steered that course.

Re-direct.

Ques. If you were sailing S. W. by W., and a propeller was coming down at N. E. by E., and should make your light over her starboard bow 2 or 2½ points, at a distance of two miles, would she be north or south of you? Do you mean to be understood that the propeller would not be to the north of the steamer?

(Question objected to as leading, and so decided, and answer taken subject to objection.)

Ans. If they were on parallel courses, the propeller would be to the northward.

Re-cross.

Ques. Are not the class of vessels carrying 2 lights on the cross-trees called lower lakers?

Ans. We generally consider them lower lake propellers—lower lakers.

A. H. PIPER.

Deposition of Charles H. Wilcox, taken before Amelian Conkling, United States Commissioner for the Northern District of New York, on the 12th day of October, A. D. 1854, at the City of Buffalo.

Dep'n of C. H. Wilcox.

Ques. 1st. What is your age, residence, and profession, and how long have you been a physician?

Mr. McNett, on the part of the respondents, objects to all the interrogatories following No. 1.

Ans. I am forty-one years old. I live in Buffalo, and am a physician, and have been for eleven years past.

2. Do you know Captain Petty who was master of the steamboat Atlantic in 1852, the year in which she was lost on Lake Erie?

(The proctor, Mr. McNett, withdraws his general objection to the interrogatories.)

Ans. I do. I knew him then.

3. Do you remember the time of the collision between the propeller Ogdensburgh and the steamer Atlantic in 1852, near Long Point, on Lake Erie?

Ans. I remember the time.

4. At what time, and at what place after the collision, did you first see Captain Petty, the late commander of the steamboat Atlantic?

Ans. I saw him on the twentieth day of August, at the Western Hotel, Buffalo, about the middle of the day.

5. Was you sent for, and did you attend to him (Captain Petty) as a physician at that time?

(Objected to as immaterial, and answered subject to objection. Objected to on the ground of immateriality.)

Ans. I was.

6. Will you explain fully the condition you found him in, his symptoms during your attendance upon him, the nature of his illness, how long you attended him, and please give your opinion of the cause of his illness.

(Objected to as immaterial; second, because the doctor is called upon to express an opinion upon symptoms without having a state of facts presented which correspond with the truth. The objection is subsequently withdrawn, except as to its immateriality.)

Answered subject to objection.

Ans. I found him in a partially comatose or stupid state, with a contusion—an abrasion rather—on the upper forward part of his head. This condition continued gradually abating for four days, when he was able to leave for the country, when I thought it prudent for him to go. I attended upon him four days. I supposed the cause of his illness to have been concussion of the brain, probably produced by a blow where the abrasion appeared.

7. Would cowardice or sudden fright produce the symptoms or illness of Captain Petty at the time you found him, or during your attendance upon him?

Mr. Gardner, the counsel for the libellants, declines having the seventh interrogatory put.

Cross-examination. No Questions.

At this point, Mr. Gardner proposed to put another question to the witness, asking a fuller statement of the reasons why he recommended Petty to go into the country. Mr. McNett objected, and the objection was sustained.

CHARLES H. WILCOX.

Deposition of I. M. Green, taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office, in the City of Cleveland, on the 14th day of October, A. D. 1854.

Dep'n of I. M. Green.

Questions by Capt. Gardner, agent for the libellants.

1st. What is your age, occupation, how long have you been a mariner, and how long an officer of a steamer, and how long master, and how long master of a sail vessel?

Expert.

Ans. I am 45 years of age. I am a sailor, and have been one about 30 years. I have been master of a propeller one season and part of another. I was also part of a season master of a steamboat. I have been master of a sail vessel in all about nineteen years. I have been mate of a steamboat a part of one year, and mate of a propeller one season.

2d. If you were in command of a steamer in a still night, going from Buffalo to Detroit, and you should make a white light ½ or ¾ of a point over your larboard bow, what would you do?

Ans. I do, should do nothing more than keep my course, or port my helm a little and give her a wider berth.

3d. If you were in command of a steamer in a still night, running from 12 to 14 miles an hour, and if from the absence of signal lights, or from any other cause, a propeller should approach you within four or six lengths, and from one to three points off your larboard bow before you discovered she was not a sail vessel, and if she was running from three to seven miles an hour, and heading across your course, so that if you stop your engine a collision is apparently inevitable, what would you do?

Ans. The only way to get clear of her would be to port my helm, and let her go.

4th. If you were in command of a steamboat with five hundred passengers on board, and after a severe collision with your boat cut clear into the main hatch, and you were satisfied your vessel must sink, and you were only from one to three miles from shoal water, what would you do, stop in deep water or head your boat for shore?

Ans. Head my boat for the shore.

5th. Are you acquainted with the steamer Atlantic, and would you consider it bad seamanship for the officer of the deck of such a steamer, from time to time during his watch, to step into the pilot house, examine his compass, and for a few moments look out ahead from the windows, where the pilot house is as elevated and has as commanding a view as that of the Atlantic, and during the year 1852, was it not customary so to do?

Ans. I have been aboard of her, and have seen her. I consider it necessary for the officer of the deck to examine the compasses and know what course the vessel is steering, and for that purpose it is

necessary and customary to step into the pilot house and examine the compass, but not to stop there long.

6th. During the year 1852, was it customary on the Lakes for steamers to carry any additional look out other than the officer of the deck and wheelsman, and is it now?

Ans. It was not customary in all cases. I think it was customary with some of the large boats, but not all of them.

7th. In a night when you can see a light from two to four miles off, would it be bad seamanship to leave the deck in charge of the second mate, and is it usual, and customary so to do?

Ans. I should not think it bad seamanship if the second mate understood his duty, and it is customary to do so.

8th. Are there any circumstances in which when you make the red light of an approaching steamer, you would not show her your red light in passing?

Ans. If I was meeting her I would show my red light. If I should make her red light two points on my starboard bow, it would be necessary to port my helm and show my red light. If I should make her red light nearly abeam, and I was sure I could go round her, I should not show my red light, but then if a collision should take place I should consider myself lame.

9th. If you were in command of a propeller on your way from the south shore to the Welland Canal, and you should make the red light of a steamer 2 points over your starboard bow, what would you do, would you attempt to cross her bows, or would you port your helm, show your red light, and go ahead with confidence?

Ans. I should port my helm.

10th. Suppose yourself in command of a propeller going from the south shore to the Welland Canal, and you make the red light of a steamer 2 or 2½ points on your starboard bow, and you knew her to be a north shore boat on her way from Buffalo to Detroit, what would you do, attempt to cross her bows, or port your helm, show your red light and go ahead with confidence?

Ans. I should port my helm.

11th. If you were in command of a propeller on a still night, and should make a light 2½ points over starboard bow, supposed to be two or three miles off, and such light does not on observation close in on you, would it be good seamanship or in any way necessary to slow your engine, and is such practice usual or not?

Ans. The course I would take would be to port my helm and go along, taking the proper side of her.

12th. Suppose yourself in command of a large class passage steamer like the Atlantic, she well lighted and manned, the weather calm, the night such that a light may be seen from 1½ to 3 miles, you make the light of what you suppose a sail vessel, one or ¾ of a point on larboard bow, and on porting you readily opened the light a point or ¾ of a point more where the light continued to bear, would

good seamanship require you to slow your steamer, and is it ever done, to pass a vessel under such circumstances?

Ans. On a calm night I would open out the light, and go long if I supposed it was a sail vessel.

13th. In such circumstances, when you show your red light, do you rely with confidence on the approaching craft keeping her course or porting her wheel and going to the right?

Ans. Yes, sir, I rely upon her keeping her proper side.

14th. And if the approaching craft is a propeller, what is her duty?

Ans. It is her duty to port her helm, and take her proper side—the side that the law lays out for her.

15th. In your answer to interrogatory No. 6, where you speak of steamers carrying additional lookouts, do you mean to be understood that they carry any other than the master, 1st and 2d mate, and one called a watchman? If so, does more than one of those persons named, in a night when a light could be seen from two to three miles off, stand watch at the same time?

Ans. I do not mean to say that they carry more than the master, 1st and 2d mate, and a watchman; nor that it is necessary for more than one of these and the wheelsman to be on watch at the same time. This watchman is not included in the lookout with the officers.

16th. Is the duty of such a watchman, as you understand it, to look out for fires on the boat, thieves, and also at other times to be looking out occasionally for approaching vessels, and seeing one in the night would it be his duty to name it to the officer of the deck?

Ans. It is his duty to look out for fires and thieves, and to notify the officer of the deck of any obstruction he may see.

Gen'l Questions.

17th. Do you remember the time of the collision of the Ogdensburgh and the steamer Atlantic, near Long Point, in 1852?

Ans. I do.

18th. Are you acquainted with Captain Richardson, who was the master of the Ogdensburgh at the time of the collision, and McNett, the mate at the same time, and did you know them at that time and before?

Ans. I am acquainted with Capt. Richardson, and knew him at the time of the collision, and before it. I was then partially acquainted with McNett.

19th. When did you first become acquainted with McNett?

Ans. I became acquainted with McNett on board the Ogdensburgh, while I was coming from Oswego to Cleveland, on the trip up before the collision.

20th. Will you now state what occurred during your trip from Oswego to Cleveland, in regard to De Grass McNett's ability to sail a propeller? What was done in regard to the use of the engine bells? Please explain fully.

Ans. There was nothing very essential occurred, that I know of; only he had to take his first lesson then about ringing the bells. It was his first trip on the Ogdensburgh. When he was getting alongside the wood dock I thought he did not know how to manage the bells on the boat. I made the remark that he was probably better acquainted with managing sail vessels than steamboats. He did not himself pretend to be experienced in working steam crafts. He notified the engineer that he was going to practice on the bells in the day time, so that he might know how to use them in the night; and while practising, he told the engineer to take no notice of the bells. I was by at the time he had two spells of practising under the instruction of Capt. Richardson.

21st. Did you, or any one else, take De Grass McNett's place, in the canal or other difficult places, when the engine bells would have to be often used, on your way from Oswego to Cleveland?

Ans. I cannot say that I took his place; I worked her up through the locks, by Capt. Richardson's request. I did not take McNett's place, but Capt. Richardson's place. It was the master's duty to work the boat up through the locks.

23d. From what you saw of De Grass McNett's seamanship on that trip up, would you be willing to intrust him as the officer of the deck on board a propeller, when you was master, to run her in the night time, without any but ordinary assistance?

Ans. I would trust him just as far as I would trust any other mate, to call me when he saw anything ahead. There is no doubt of his ability as a seaman, but he was not acquainted with steam; he did not profess to be.

23d. Did you have a conversation with Capt. Richardson at Cleveland, when he was here on his way to the Welland Canal, the same trip of the collision, the day before the collision? If so, give it.

Ans. I did. Capt. Richardson, at the time he came in here, was sick; he was so as to be up about, but was not well. I went and got medicine for him to take on the way down. He wished me to go with him to the canal, if I could. He was afraid, he said, that he was going to be sick, and not able to attend to his business, and he had not confidence in McNett, the mate. The reason I did not go was because there was not time to make the trip and get back before the time for my vessel to sail.

24th. What did you say to Capt. Keating, the master of the vessel you was mate of, about going, and what did he say?

Ans. I mentioned it to Capt. Keating, and he said there would not be time to go down.

25th. After the collision, what did you say to Mr. Chamberlain about the conversation with Capt. Richardson, and what did he say?

Ans. I mentioned to Mr. Chamberlain, after we heard of the collision, the conversation I had had with Richardson. Chamberlain said he was sorry I did not go; I replied, I was glad I did not go, for I might have been blamed. I said to Mr. Chamberlain that the

same thing might have happened to me. At the time of this conversation we had not got the particulars; we had but just got a telegraph.

Cross-examined by Judge Spalding.

Ques. Did not Capt. Richardson represent to you, on that occasion, that he wished you to go along, to take his (Capt. Richardson) place, in case he should be too unwell to attend to his duty?

Ans. That was the object, I suppose, he had in view; he was quite sick, and did not know but that he was going to be sicker; and did not know that he could trust his whole vessel to his mate; the words were like this: "He had no confidence in his mate."

Ques. No confidence in his mate; in what respect? as a sailor, or as a person accustomed to manage steam vessels?

Ans. As a person accustomed to manage steam vessels.

Ques. Did you understand Capt. Richardson to call in question Mr. McNett's integrity as a man or his ability as a seaman, setting aside his experience on steam vessels?

Ans. No, sir; I did not understand him to question his integrity as a man or his ability as a common sailor, but simply his experience as a steam navigator. He did not speak of him lightly, but said he had no confidence in him.

Ques. Had you ever worked a one wheel propeller until you tried your hand on board of the Ogdensburgh, at the time you have mentioned?

Ans. That was the first.

Ques. Does every new mate on board of a steamboat or propeller have to learn the rules of the vessel in regard to signal bells, and are they not different on different vessels?

Ans. He does; they are different on different vessels.

Ques. Did you not work the Ogdensburgh through the lock of the Welland Canal, in order to get your hand in, as you expected to have the principal charge of another propeller in the same trade?

Ans. That was the object, sir. I had never taken a single wheel propeller through the locks before.

Ques. In running from Cleveland to the Welland Canal, at any time after the collision, did you discover the buoy of the Atlantic? and if so, state about how far that buoy is from the Canada shore, and about how far and in what direction from Long Point lighthouse?

Ans. I saw the buoy there and saw vessels to work at it. I never took the bearing, and what I should say about it would be mere guesswork. The distance from the lighthouse, I should think, was in the neighborhood of six miles. I should think the bearing from the lighthouse S. W. by S., or S. S. W. I can't be positive about it. I should think it was from three to four miles from the Canada shore, in a direct line.

Ques. How near to that buoy have you run on your way from

Cleveland to the Welland Canal, when steering your usual courses by compass?

Ans. I have run right close to it when I have made a little variation on account of the wind. Steering a direct course through, we should pass from six to eight miles to the southward of the buoy. A straight course through will leave Long Point about 10 miles to the northward. We sometimes vary our courses on account of the weather.

Ques. How much experience have you had in running a propeller in the lower lake trade from Cleveland to the mouth of the Welland Canal?

Ans. All of one season, and a part of two others; we did not always run from Cleveland across. Sometimes from Cleveland, sometimes from Toledo, and sometimes from Detroit.

Ques. In running your propeller from Cleveland to the mouth of the canal, how wide a berth did you commonly find you had to give Long Point?

Ans. From one to three miles; we generally hauled up and made the upper end of Long Point.

Ques. Can you, as a matter of fact, run a propeller on a direct mathematical line from any point on the South Shore to any other point on the North Shore? Will not the winds and currents, to a greater or lesser extent, have their effect upon the running of the vessel, and must not some allowance be made for the unskilfulness and inattention of the wheelman?

Ans. If there is little or no wind, we never calculate to make any variation in our courses. In light weather, the winds and currents will not make any variation in our courses. There is no current that we have to make any allowance for.

Ques. Suppose from twelve miles off Madison Dock you shape your course N. E. by E., the wind at S. W., a four knot breeze, can you, keeping your course by the compass, make a straight line between the point of departure, and the point where you bring up on the Canada side? By a straight line, I mean a mathematical line.

Ans. That wind won't have any effect in varying the course of the vessel.

Ques. How will you answer the question supposing the wind is west?

Ans. It would not have any effect upon the vessel.

Ques. Did your propeller, the Granite State, carry two globe lights at her cross-trees when running in the night?

Ans. She did.

Ques. In a clear night, with the exception of a haze twenty or twenty-five feet over the surface of the water, how far could those two lights have been seen by any other vessel that could see them at all?

Ans. Five or six miles.

Ques. If you had command of a passenger steamboat in the night

season off Long Point, on your way to Detroit, the night being such as described in the last question, would you feel it safe to entrust the deck to a second mate, who was the second mate for the first time that season, and he inside of the pilot house?

Ans. I should not feel safe to entrust the deck to any person to stay inside the pilot house. I would entrust the deck to one I considered competent to be second mate, with instructions to call me if any obstructions should come in sight.

Ques. Where is the best place for a lookout on board such a steamer on such a night? On the top of the pilot house or inside of it?

Ans. If I was going to station a lookout I should station them around the pilot house, where they could speak to the wheelsman, and get hold of the bells.

Ques. Please to answer the last question directly; which is the best place, on top of the pilot house, or inside of it?

Ans. On top of it.

Ques. What vessel do you now command, and is she a sail vessel or a steamer?

Ans. The schooner Odes; a sail vessel.

Ques. Who first spoke to you, in behalf of Capt. Ward, to give your deposition in this case?

Ans. I think it was Capt. Howe.

Ques. How often have you talked to Capt. Gardner about it?

Ans. But once before last evening.

Ques. At what time and place did this Mr. Gardner hold out the idea to you that you might perhaps get a berth on the steamboat Ocean, belonging to his employer?

Ans. Neither Mr. Gardner nor any other man ever held out any such inducement to me: I am not to be bought or sold.

Ques. Have you not had letters from one of the Wards or from some one of their runners to this effect?

Ans. I have not, sir.

Re-examined by Capt. Gardner.

Ques. Who owns the vessel you now sail?

Ans. I own her myself, and have owned her since last February.

Ques. You state that you sometimes run within from one to three miles of Long Point light, on your way to the Welland Canal; do you do so generally in fair, calm weather?

Ans. If it is coming on night time, and the weather is thick, we generally make the land by hauling up to the westward some fifteen miles above Long Point, and then shape our course for the Welland Canal; at other times, we keep our regular course.

Ques. Suppose you shape your course four or five miles off Madison dock, on the propeller in which you sailed, N. E. by E., and you keep her on that course, where would it bring you at two or half past two o'clock in the night, leaving Madison dock about 8 o'clock

in the evening, the wind blowing a two-knot breeze from the southwest, with the propeller running about eight miles an hour, in reference to the North Shore, or Long Point Light?

Ans. It would bring me about twelve miles above the Point, and fifteen miles to the southward of Long Point.

Ques. To whom did the propeller you sailed belong?

Ans. To Chamberlain and Crawford; it belonged to the same line with the Ogdensburgh.

I. M. GREEN.

Deposition of I. M. Green, taken before Amelian Conkling, United States Commissioner for the Northern District of New York, at his office in the City of Buffalo, on the 22d day of February, A. D. 1855.

Dep'n of I. M. Green.

Witness saith: I am the same Captain I. M. Green who testified heretofore in this case at Cleveland.

Ques. Do you know Lewis Young, the former engineer of the propeller Ogdensburgh?

Ans. I do.

Ques. Do you remember hearing a conversation between Mr. Gardner and Lewis Young, at the Mineger House, at the City of Oswego, about the 20th of January, 1855, when Mr. Stone and others were present?

Ans. I do.

Ques. What did Lewis Young say, at that time, about the speed of the Ogdensburgh about the time the Atlantic and Ogdensburgh struck together?

(Objected to, on the part of the counsel for the respondents, as incompetent on its face, and the counsel for the respondent insists that the testimony shall not be taken, because it is no way pertinent to the issue.

The counsel for appellants states that the testimony is offered for the purpose of impeaching the witness, Young, and he understands, from the senior counsel in the cause, that this testimony is pertinent for that purpose, and thereupon the testimony is admitted.)

Ans. He said, at one time, that she must have been going as much as five or six miles an hour; at another time, he said six or eight.

ISAAC M. GREEN.

Deposition of Frederick S. Miller, taken before Amelian Conkling, United States Commissioner for the Northern District of New York, at his office in the City of Buffalo, on the 21st day of February, A. D. 1855.

Dep'n of F. S. Miller.

Ques. 1st. What is your age, occupation, and residence? How

long have you been a mariner, and how long an officer of a steamboat?

Ans. I am forty-four years old; I reside in Buffalo; I have been a mariner twenty-four years; I have been an officer of a steamboat since 1837, and master some seven years.

Ques. 2. If you were in command of a steamer of a still night, going from Buffalo to Detroit, and you should make a white light a half or three-fourths of a point over your starboard bow, what would you do?

Ans. I should keep her on her course till I saw that light change.

Ques. 3. If you were in command of a steamer in a still night, running from twelve to fourteen miles an hour, and if, from the absence of signal lights, or from any other cause, a propeller should approach you within four or six lengths, and from one to three points off your larboard bow, before you discovered she was not a sail vessel, and if she was running from three to seven miles an hour, and heading across your bows, so that if you stop your engine a collision is apparently inevitable, what would you do?

Ans. If a collision was apparently inevitable, I should keep my wheel aport, and keep her going around, if she was four points on my larboard bow; that is now my impression, under the circumstances; at one to three points, I have sometimes put the wheel aport, and sometimes stopped her, and sometimes I have backed: I have had them in all shapes.

Ques. 4. If you were in command of a steamboat, with five hundred passengers on board, and after a severe collision, with your boat cut near to the main hatch, and you were satisfied your vessel must sink, and you were only from one to three miles from shoal water, what would you do, stop in deep water or head your boat for shore?

Ans. I should head for the shore.

Ques. 5. Were you acquainted with the steamboat Atlantic, and what, in your opinion, are the proper places for the officer of the deck on board of steamers of her class?

Ans. I was acquainted with the Atlantic. In my opinion, in the pilot house is the best place for an officer of the deck. In the pilot house the look-out is, in my opinion, in the best place.

Ques. 6. Would you consider it bad seamanship for the officer of the deck of such a steamer, from time to time during his watch, to step into the pilot house, examine his compass, and for a few moments to look out ahead from the windows, where the pilot house is as elevated, and has as commanding a view as that of the Atlantic, and during the year 1852, was it not customary so to do?

Ans. I should not consider it bad seamanship, and it was customary.

Ques. 7. During the year 1852 was it customary on the lakes for steamers to carry an additional look out other than the officer of the

deck, and wheelsman? and is it now, except upon those vessels that run only in the night time?

Ans. It was not customary in that season that I know of to have any look out other than the officer of the deck.

Ques. 8. In a night when you can see a light from two to four miles off, would it be bad seamanship to leave the deck in charge of the second mate, and is it usual and customary so to do?

Ans. It is usual to leave the second mate in charge for the time being, under such circumstances, and it would not be bad seamanship.

Ques. 9. Are there any circumstances in which when you make the red light of an approaching steamer, you would not show your red light in passing?

Ans. No sir, there are none.

Ques. 10. If you were in command of a propeller on your way from the south shore to the Welland Canal, and you should make the red light of a steamer from one to two and a half points over your starboard bow, what would you do? would you attempt to cross her bows, or would you port your helm, show your red light, and go ahead with confidence?

Ans. I should port my helm and show my red light.

Ques. 11. Suppose yourself in command of a propeller going from the south shore to the Welland Canal, and you make the red light of a steamer, two or two and a half points on your starboard bow, and you knew her to be a north shore boat, on her way from Buffalo to Detroit, what would you do, attempt to cross her bows, or port your helm, show your red light, and go ahead with confidence?

Ans. I don't see any difference in this question from the last, except the north shore boat.

Ques. 12. If you were in command of a propeller on a still night, and should make a light two and a half points over your starboard bow, supposed to be two or three miles off, and such light does not on observation close in on you, would it be good seamanship or in any way necessary to slow your engine, or is such practice usual or not?

Ans. No, it would not be necessary.

Ques. 14. Suppose yourself in command of a large class passage steamer, like the Atlantic, she well lighted and manned, the weather calm, the night such that a light may be seen from one and a half to three miles, you make the light of what you suppose to be a sail vessel, one point or three-fourths of a point on larboard bow, and on porting you readily opened the light a point or three-fourths of a point more where the light continued to bear, would good seamanship require you to slow your steamer, or is it ever done to pass a vessel under such circumstances?

Ans. I should not do it.

Ques. 15. In such circumstances, when you show your red light,

do you rely with confidence on the approaching craft keeping her course or porting her wheel, and going to the right?

Ans. I calculate if I show my red light that she is going to show me hers.

Ques. 16. And if the approaching craft is a propeller, what is her duty?

Ans. To show me her red light.

Ques. 18. If the second mate is a competent seaman, is it in conformity with the usages and customs of navigation to leave him when the weather is calm, the night such that a light may be seen one and a half to three miles off, to entrust the deck to him? and is this not far more common than for the captain in good weather to stand watch in the night?

Ans. In open lake navigation, and under these circumstances, it is customary to leave the deck in charge of the second mate.

Ques. 19. How far should colored signal lights be seen by approaching vessels in an ordinary night?

Ans. I should think a red light ought to be seen in an ordinary night about four miles.

Ques. 20. If signal lights, colored, are not burning so as to be seen one or two miles off in an ordinary night, would you consider them proper lights for a propeller or steamer?

Ans. I should not.

Cross-examination.

Ques. 1. If you were in command of a steamboat running in the night season past Long Point, at the rate of fifteen miles an hour, and should make a white light belonging to a vessel, whose character and course are unknown, three-fourths of a point over your larboard bow, distant about one mile, and upon porting your helm, should find yourself nearing, without materially opening the light, would you not consider that ordinary prudence required you to ease your engine and run with diminished speed?

Ans. I don't know, I think the question crosses itself. At three-fourths of a point, if I was bothered with the light, I should check her.

Ques. 2. You are in command of a steamboat running past Long Point in the night, you make a white light on your larboard bow, and first "port," and then "hard aport" your helm, when you find yourself unexpectedly laying your course across the bows of a propeller, and within twice your length of her, would you not at once stop and reverse your engine?

Ans. I should keep her a going, I think; as I now see the circumstances I should keep her a going. I could turn her around in a half a mile, in a circle of that diameter.

Ques. 3. You are in command of a steam packet with 500 passengers on board, running up the north shore of Lake Erie, in the

night season; you have a collision with a propeller deeply laden, by which you have experienced an injury, but to what extent is not known, neither do you know how badly you have injured the other vessel; would not a due regard to the safety of life, on both vessels, require you to stop until the comparative injuries were ascertained?

Ans. If I did not know the extent, I think it would.

Ques. 4. Cannot you have a more unobstructed view from the top of the pilot house, on such a steamer as the Atlantic, than from the inside thereof? Can you not control the movements of a steamboat better from the top of the pilot house than from any other point?

Ans. We can handle a steamboat better from the top of the pilot house than from the inside of the pilot house or any other point. In regard to the view, for the time being, a man can see better all around him from the top than from the inside. But as a place to stand watch for a number of hours, I think the inside to be preferred.

Ques. 5. You are in command of a steamboat, running up the north shore, in the night season, and passing Long Point at a time when there is such a haze upon the water that you are obliged to climb up the shrouds to make the light on the point, at three miles distance; you are running fifteen miles an hour, and have five hundred passengers on board; under such circumstances, would you entrust the deck to a second mate, who had never served as an officer of the deck until that season, and would you permit your vessel to run at such a time, at such a place, and with so great an amount of life and property at stake, with no other or better "look-out" than such a second mate inside the pilot house with the wheelsman?

Ans. Under all that reading, I think I should not.

Ques. 6. You are in command of a propeller, in a hazy night, steering N. E. by E.; you make a light two and a half points off your starboard bow, which opens gradually to four points, and then becomes stationary, excepting that you are apparently closing in with it. All at once, a large steamer opens out of the haze, and shows you her red light, at three times her length distant, say nine hundred feet, bearing from four to six points off your starboard bow, she is heading, when you first see her red light, for your pilot house, as near as you can judge. Under these circumstances, admitting the steamboat to be running fourteen miles an hour, and the propeller three and a half, would you feel it your duty to port your helm and show your red light? Would you not rather "check down," and, if possible, stop and back your propeller?

Ans. I should do both, sir.

Ques. 7. Are not the vessels which carry two white lights at the masthead readily distinguished on Lake Erie as "Lower Lakers," or such as run through the Welland Canal to Lake Ontario?

Yes, sir, I think so.

Ques. 8. Do sail vessels show two white lights at one and the same masthead, upon Lake Erie?

Ans. No, sir.

Ques. 9. If there be a haze upon the surface of the water, rising in height some twenty or thirty feet, and so thick that Long Point light cannot be seen from the deck at three miles distance, will you not be likely to see the two white lights at the masthead of a Lower Lake propeller, when you are wholly unable to make out her red and green lights, placed in front of the pilot house?

Ans. I should think you would see the white lights first.

Ques. 10. Is it not properly the duty of the man or boy called a "watchman," on board of steamboats on Lake Erie, to look out for thieves and fires on board the vessel? Is this "watchman" commonly set on a prominent part of the steamer forward, to look out for the approach of other vessels? Is not this last named duty generally performed by the officer of the deck and a "hand" stationed forward for the express purpose?

Ans. I believe steamers, running in the railroad line, are carrying a man who acts only as look-out. I speak of the present time. In the season of 1852, I think that no steamboats carried any look-out beside the officer of the deck. A watchman and a look-out are different things, though sometimes both duties are performed by the same man.

Ques. 11. Suppose the steamboat Atlantic to have been steering her course for Detroit, on the night of the 20th August, 1852, S. W. by W., and running at top speed, 15 miles an hour, she makes the two white lights at masthead of the propeller Ogdensburgh, running N. E. by E., for the Welland Canal, at from three to seven miles an hour, off her larboard bow $\frac{3}{4}$ of a point, and one mile distant. The Atlantic immediately throws her helm "aport," and within half a minute thereafter "hard aport," without checking her speed. The Ogdensburgh does not alter her course. Is it possible that there would have been a collision, by which the Atlantic would have been cut open at her forward larboard gangway, under these circumstances? If the Atlantic struck the propeller, after running a mile, with her helm first "aport" and then "hard aport," at top speed, the propeller all the while holding her course, must not the Atlantic have been considerably to the southward of the course of the propeller, when she first put her helm aport?

Ans. It will take a great deal of conversation to get the answer to that question. I think that the Atlantic would go around without touching her. The Atlantic porting her helm, as described, must have moved to the southward and westward. I don't mean that she was going to the southward of her previous course. Putting her helm aport and hard aport, and keeping it so, when she got entirely around, she would probably be a half a mile north of the line of her previous course.

Re-direct.

Ques. State the reasons why you consider in the pilot house the best place to stand watch in the night.

Ans. One reason is, that he is by his compass and can look at it very often, and he is close to the man at the wheel. He cannot skulk from a look-out out of the window in his presence, without it being known. Whereas, if at any other part of the boat, he can neglect his duty without its being known. What I mean is, that a look-out will be more faithful in the presence of the wheelsman than elsewhere.

FREDERICK S. MILLER.

Deposition of Benjamin J. Stone, taken before Amelian Conkling, United States Commissioner for the Northern District of New York, at his office in the City of Buffalo, on the 21st day of February, A. D. 1855.

Dep'n of B. J. Stone.

Ques. 1. What is your age, residence, and occupation? How long have you been a mariner, and how long an officer of a steamboat?

Ans. I am 42 years old, reside in Oswego, New York. I am a mariner; I have sailed about ten or eleven seasons. I have been an officer of a steamboat one whole season and part of another. I have been mate.

Ques. 2. If you were in command of a steamer of a still night going from Buffalo to Detroit, and you should make a white light a half or three-fourths of a point over your larboard bow, what would you do?

Ans. I should port my wheel and go ahead, if I thought it necessary to go clear of her.

Ques. 3. If you were in command of a steamer in a still night running from twelve to fourteen miles an hour, and if from the absence of signal lights, or from any other cause a propeller should approach you within four or six lengths, and from one to three points off your larboard bow before you discovered she was not a sail vessel, and if she was running from three to seven miles an hour and heading across your bows, so that if you stop your engine a collision is apparently inevitable, what would you do?

Ans. I should put my wheel aport.

Ques. 4. If you were in command of a steamboat with five hundred passengers on board, and after a severe collision, with your boat cut near to the main hatch, and you were satisfied your vessel must sink, and you were only from one to three miles from shoal water, what would you do, stop in deep water, or head your boat for shore?

Ans. I should head her for shore as fast as she could go.

Ques. 5. Were you acquainted with the steamboat Atlantic, and

what, in your opinion, are the proper places for the officer of the deck on board of steamers of her class?

Ans. I have been on board the Atlantic when she was in port. On the pilot-house; forward on the promenade deck; or in the pilot-house, are the proper places.

Ques. 6. Would you consider it bad seamanship for the officer of the deck for such a steamer, from time to time during his watch, to step into the pilot-house, examine his compass, and for a few moments to look out ahead from the windows, where the pilot-house is as elevated, and has as commanding a view as that of the Atlantic, and during the year 1852, was it not customary so to do?

Ans. No, sir; it would be his duty to do so; I believe it was customary in 1852.

Ques. 7. During the year 1852, was it customary on the lakes for steamers to carry an additional look-out, other than the officer of the deck and wheelsman, and is it now, except upon those vessels that run only in the night time?

Ans. Not that I know of; I don't know of any except those.

Ques. 8. In a night when you can see a light from two to four miles off, would it be bad seamanship to leave the deck in charge of the second mate, and is it usual and customary so to do?

Ans. It would not be bad seamanship, and it is usual.

Ques. 9. Are there any circumstances in which, when you make the red light of an approaching steamer, you would not show your red light in passing?

Ans. No, sir.

Ques. 10. If you were in command of a propeller on your way from the South Shore to the Welland Canal, and you should make the red light of a steamer from one to two and a half points over your starboard bow, what would you do? would you attempt to cross her bows, or would you port your helm, show your red light, and go ahead with confidence?

Ques. 11. Suppose yourself in command of a propeller going from the South Shore to the Welland Canal, and you make the red light of a steamer two or two and a half points on your starboard bow, and you know her to be a North Shore boat on her way from Buffalo to Detroit, what would you do, attempt to cross her bows, or port your helm, show your red light, and go ahead with confidence?

Questions No. 10 and No. 11, not put.

Ques. 12. If you were in command of a propeller on a still night, and should make a light two and a half points over your starboard bow, supposed to be two or three miles off, and such light does not on observation close in on you, would it be good seamanship, or in any way necessary to slow your engine, or is such practice usual or not?

Ans. No, sir; it would not be necessary. I don't think it is usual.

Question No. 13, not put.

Ques. 14. Suppose yourself in command of a large class passage

steamer like the Atlantic, she well lighted and manned, the weather calm, the night such that a light may be seen from one and a half to three miles, you make the light of what you suppose to be a sail vessel one or three-fourths of a point on larboard bow, and on porting, you readily opened the light a point or three-fourths of a point more. Where the light continued to bear, would good seamanship require you to slow your steamer, or is it ever done to pass a vessel under such circumstances?

Ans. 1st. No, sir.. 2d. No, sir.

Ques. 15. In such circumstances when you show your red light, do you rely with confidence on the approaching craft keeping her course, or porting her wheel and going to the right?

Ans. I rely upon her porting her wheel and going to the right.

Ques. 16. And if the approaching craft is a propeller, what is her duty?

Ans. Her duty is to do the same, port her wheel and go to the right.

Ques. 17. Is it the special duty of the officer of the deck, whether it be the master, first or second mate, to look for vessels and direct the navigation of the steamer? Is such officer, when competent, sufficient, and all which, according to the usages on the western lakes, are kept on good first-class steamers, and when such vessels are like the Atlantic, provided with a separate watchman, is there any liability on the part of the officer of the deck to be called to look to other parts of the vessel? If any extraordinary emergency should occur to call him away, would he not call some other officer to the deck?

Ques. 18. If the second mate is a competent seaman, is it in conformity with the usages and custom of navigation to leave him when the weather is calm, the night such that a light may be seen, one and a half to three miles off, to entrust the deck to him, and is this not far more common than for the Capt. in good weather to stand watch in the night?

Questions No. 17 and No. 18 not put.

Ques. 19. How far should colored signal lights be seen by approaching vessels in an ordinary night?

Ans. Four to six miles, I should think.

Ques. 20. If signal lights, colored, are not burning so as to be seen one or two miles off in an ordinary night, would you consider them proper lights for a propeller or a steamer?

Ans. No, sir.

Ques. Are you acquainted with De Grass McNett, the former mate of the Ogdensburgh?

Ans. Yes, sir.

Ques. At what place did you first see him, and on what vessel?

Ans. At Oswego, on the propeller Ogdensburgh.

Ques. Did you proceed to Cleveland on the Ogdensburgh on that trip?

Ans. Yes, sir.

Ques. Are you acquainted with Captain I. M. Green, of Oswego, and did he go on the Ogdensburgh at the same time and place with yourself to Cleveland?

Ans. Yes, sir.

Ques. Did you have any conversation with McNett on the pilot house of the Ogdensburgh on that trip, with regard to his experience as a seaman?

Ans. Yes, sir.

Ques. Please state the conversation as near as you can recollect?

(The counsel for the appellees objects to the testimony, because it applies to the declarations of a person who is himself a competent witness, and answer taken subject to objection, the question being persisted in.)

Ans. The conversation was in regard to the courses and sailing on the lakes; amongst the rest, I asked him how he would steer up from Long Point to Cleveland; he told me how. I told him that that course would take us a good ways from Cleveland, or else I had been learned wrong. He said he had been off to California, and had not been a sailing for the last two or three years. I think he said, he might have forgotten; he said his memory was not exactly fresh on the courses, and they would soon come to him.

Ques. How far from Cleveland would the course he mentioned have carried him?

Ans. I should think from fifteen to twenty miles to the northward of Cleveland.

Ques. What did he say about his experience on steam vessels?

Ans. He said he had never done much steaming, that he had been on the Lady of the Lake a short time, and that trip up was the first trip on which he had been on board a propeller.

Ques. Did you notice McNett's management of the propeller in bringing her alongside of the dock on that trip?

Ans. Yes, sir, it was at the western end of the Welland Canal, at Gravelly Bay.

Ques. Describe how he did it?

Ans. The boat was lying beside the dock, and it was necessary to move it astern to be abreast of the coal dock. He went on to the pilot house and rung the bell to back her, and they backed her, and fetched her up by the lines, instead of working the engine as he should have done.

Ques. What next did you discover in regard to his seamanship and experience with the bells of the engine, on that trip?

Ans. After we had got out from Gravelly Bay he was called up on the pilot house; Captain Green was there, and Captain Richardson, and they called us up there; Captain Richardson then went to work and instructed him in regard to ringing the bells. He practised on the bells. I suppose they had told the engineer not to pay any attention to the bells—no attention was paid to them.

Ques. Had you at that time ever sailed as the master of a propeller?

Ans. No, sir.

Ques. Into whose employ did you enter on your arrival at Cleveland, in what capacity, and under what master?

Ans. I entered the employ of Chamberlain and Crawford, in the capacity of 2d mate of the Granite State propeller, under Captain Keating. The first mate was Captain Green.

Ques. How long subsequent to your going on board the Granite State did Captain Green become master of her?

Ans. Captain Green was master of her outside, that is, sailing master.

Ques. At the time of the practising on the bells referred to by you, what attention did you pay to it, and why?

Ans. I paid attention to the instruction given by Captain Richardson in order to learn myself.

Ques. While you were sailing under Captain Green that fall, in meeting boats coming near in the night, what did you usually do?

Ans. I usually called Captain Green as soon as I made the light; such were my orders.

Ques. Were you at the time first mate, when you did this?

Ans. No, sir.

Ques. When did you become first mate?

Ans. A few weeks after I first went on board of the propeller.

Ques. While first mate during that fall, and when on watch in the night, on meeting vessels approaching, what did you usually do?

Ans. I used to call Captain Green; such were my instructions, when I made a light to give him a call.

Ques. Did you during the same fall consider yourself competent to manage the bells of your propeller in the night time unless Capt. Green was near you?

Ans. No, sir.

Ques. Were you at Cleveland when the Ogdensburgh returned from Chicago on that trip, and was it on the same trip after leaving Cleveland, bound down, that she had the collision with the Atlantic?

Ans. I was there then, and it was after she then left Cleveland that the collision occurred.

Ques. Did you, at Cleveland, on or near the propeller Ogdensburgh, before she left on that trip down, hear any conversation between I. M. Green, and Captain Richardson of the Ogdensburgh, in reference to Captain Green's going down on the Ogdensburgh on that trip?

Ans. I did.

Ques. Please state that conversation as near as you can?

Ans. Captain Richardson said that he was unwell, and had been unwell most of the way down, I think he said from Chicago, and asked Captain Green if he would not go down with him. He said that he was afraid that if he should become worse, he would like to

have him go down. Mc. had not been with him but a short time, and he was afraid that if he was taken worse, Mc. would not be able to work her. He asked him to go, if he did not go any further than through the canal or until he met one of the other boats. I guess he said that Mc. had not much experience, and that he was afraid to trust him if he was sick so that he was not able to be on deck. Captain Richardson, in Cleveland, asked me, said he: "You can get along with the work if the old man goes down with me, can't you?" I told him I could. By the old man, I understood him to mean Captain Green.

Ques. Were you at Cleveland when news came of the collision of the Ogdensburgh and Atlantic?

Ans. Yes, sir.

Ques. Did you then, near Crawford and Chamberlain's office, at Cleveland, hear a conversation between Mr. Chamberlain and Captain Green in relation to Green's going on the Ogdensburgh?

Ans. Yes, sir. I heard a conversation, a short one.

Ques. Please state what it was as near as you can recollect?

Ans. Mr. Chamberlain said: I wish you had gone down, Captain Green. Captain Green remarked that he was glad he did not go, for then the blame might all have been laid to him.

Ques. Did you ever hear Captain Keaking, the agent of this line of propellers say anything in regard to McNett the mate of the Ogdensburgh, and if so, what was it?

(The counsel for the respondents objects to the declarations of Captain Keating, because he is neither the agent of the line, nor a party to the suit, nor a witness in the suit; and the question insisted upon and answered subject to the objection.)

Ans. I heard him make some remarks about McNett. He said he did not see how in hell Bob had got such a damn bull head as that; that he, Keating, had never liked the looks of him from the first time he ever saw him.

Ques. When and where did you hear these remarks?

Ans. I heard them at Cleveland, shortly after they received a telegraphic dispatch giving the news of the collision, and during the excitement of the occasion.

Ques. Who is the Bob referred to in your former answer.

Ans. Captain Richardson. He is called Captain Bob.

Ques. Do you know Lewis Young, a former engineer of the propeller Ogdensburgh?

Ans. Yes, sir.

Ques. Do you remember hearing a conversation between Mr. Gardner and Lewis Young at the Mineger House, in the City of Oswego, about the 20th of January, 1855, when Captain Green and others were present?

Ans. I did hear a conversation then.

Ques. What did Lewis Young say at that time, about the speed

of the Ogdensburgh at the time the vessels struck? the Atlantic and Ogdensburgh meaning.

(The counsel for the respondents objects to evidence of such declarations by Young, for the reason that such evidence is not competent for any purpose whatever. Answer insisted upon and taken subject to objection.)

Ans. He said she was going from five to six or eight miles an hour to the best of his judgment.

Cross-examination.

Ques. 1. If you were in command of a steamboat, running in the night season past Long Point, at the rate of fifteen miles an hour, and should make a white light belonging to a vessel whose character and course are unknown, three-fourths of a point over your larboard bow, distant about one mile, and upon porting your helm, should find yourself nearing, without materially opening the light, would you not consider that ordinary prudence required you to ease your engine, and run with diminished speed?

Ans. Well, I don't know as I should slow her engine any. I should put my wheel aport and keep clear of her.

Ques. 2. You are in command of a steamboat running past Long Point in the night, you make a white light on your larboard bow, and first "port," and then "hard aport" your helm, when you find yourself unexpectedly laying your course across the bows of a propeller, and within twice your length of her, would you not at once stop and reverse your engine?

Ans. I don't know whether I should or not stop her engine. I guess I should put my helm aport and try and keep away from her. I think in stopping the engine and backing in that distance you would cause a collision. I would not venture it any way.

Ques. 3. You are in command of a steam packet with 500 passengers on board, running up the north shore of Lake Erie in the night season; you have a collision with a propeller deeply laden, by which you have experienced an injury, but to what extent is not known, neither do you know how badly you have injured the other vessel, would not a due regard to the safety of life on both vessels, require you to stop until the comparative injuries were ascertained?

Ans. If my steamer was injured and was leaking, I should put her to the land as fast as possible. I think that would be most prudent.

Ques. 4. Cannot you have a more unobstructed view from the top of the pilot house on such a steamer as the Atlantic, than from the inside thereof? Can you not control the movements of a steamboat better from the top of the pilot house than from any other point?

Ans. You can have a more unobstructed view from the top, the higher you get up the further you can see. I think you could control the movements better from that point than any other.

Ques. 5. You are in command of a steamboat running up the

North Shore in the night season, and passing Long Point at a time when there is such a haze upon the water, that you are obliged to climb up the shrouds to make the light on the point at three miles distance; you are running fifteen miles an hour, and have five hundred passengers on board; under such circumstances would you entrust the deck to a second mate who had never served as an officer of the deck until that season, and would you permit your vessel to run at such a time, at such a place, and with so great an amount of life and property at stake, with no other or better "look out" than such a second mate, inside the pilot house with the wheelsman?

Ans. In the first place I would not put such a second mate on the boat at all. I would not have such an one at all, one not competent to fill the office. Under such circumstances I should be on deck myself to take charge of her, as the night is represented. If I had a good mate, in whom I had perfect confidence, I don't think I should be there all the time.

Ques. 6. You are in command of a propeller, a hazy night, steering N. E. by E., you make a light two and a half points off your starboard bow, which opens gradually to four points, and then becomes stationary, excepting that you are apparently closing in with it. All at once a large steamer opens out of the haze, and shows you her red light at three times her length distant, say nine hundred feet, bearing from four to six points off your starboard bow. She is heading when you first see her red light, for your pilot house as near as you can judge; under these circumstances, admitting the steamer to be running fourteen miles an hour, and the propeller three and a half, would you feel it your duty to port your helm and show your red light? would you not rather "check down" and if possible, stop, and back your propeller?

Ans. No, sir. I should port my helm and go it.

Ques. 7. Are not the vessels which carry two white lights at the mast-head, readily distinguished on Lake Erie as "lower lakers," or such as run through the Welland Canal to Lake Ontario?

Ans. Yes, sir.

Ques. 8. Do sail vessels show two white lights at one and the same mast-head upon Lake Erie?

Ans. I never saw two lights carried by a sail vessel at the mast-head.

Ques. 9. If there be a haze upon the surface of the water, rising in height some twenty or thirty feet, and so thick that Long Point light cannot be seen from the deck at three miles distance, will you not be likely to see the two white lights at the mast-head of a lower lake propeller, when you are wholly unable to make out her red and green lights placed in front of the pilot house?

Ans. I should think you would.

Ques. 10. Is it not properly the duty of the man or boy called a "watchman," on board of steamboats on Lake Erie, to look out for thieves and fires on board the vessel? Is this watchman commonly

set on a prominent part of the steamer forward, to look out for the approach of other vessels? Is not this last named duty generally performed by the officer of the deck, and a "hand" stationed forward for the express purpose?

Ans. It is not customary in Chamberlain and Crawford's line, to put watchmen, so called, on watch outside. I never saw it done on propellers. The duty of watchman is to watch the boat when she is in port, to see that nothing is stolen off from her, and to see that no fire or the like occurs; outside his duties are like those of a deck hand. I am not able to answer the last branch of the question as regards steamers.

Ques. 11. Suppose the steamboat Atlantic to have been steering her course for Detroit, on the night of the 20th August, 1852, S. W. by W., and running at top speed, 15 miles an hour. She makes the two white lights at mast-head, of the propeller Ogdensburgh, running N. E. by E., for the Welland Canal, at from three to seven miles an hour, off her larboard bow $\frac{2}{4}$ of a point, and one mile distant. The Atlantic immediately throws her helm "aport," and within half a minute thereafter, "hard aport," without checking her speed. The Ogdensburgh does not alter her course. Is it possible that there would have been a collision, by which the Atlantic would have been cut open at her forward larboard gangway, under these circumstances? If the Atlantic struck the propeller after running a mile with her helm first aport, and then hard aport, at top speed, the propeller all the while holding her course, must not the Atlantic have been considerably to the southward of the course of the propeller when she first put her helm aport?

Ans. It is a difficult question to answer, but I think if I was in those circumstances, I would endeavor to obey the law.

Ques. You have heard the questions read before you came to this office to day, put to you by Mr. Newberry, have you not?

Ans. Yes, sir, I have.

Ques. When, where, and by whom?

Ans. Mr. Gardner asked me those questions in Oswego about the twentieth of last month. The questions have been read to me here in Buffalo, before my presence at this examination, at Mr. Gardner's room at the hotel. It was this morning.

Direct resumed.

Ques. What conversation has Mr. Keating had with you in regard to your giving your testimony in this case?

(This question was objected to on the part of the counsel for the respondents, as irrelevant and incompetent, and the answer being insisted on, was taken subject to the objection.)

Ans. Mr. Keating came to me in Cleveland in September last, I think. He came down and said he, Stone, what time are you going out? I told him at what time. He said he wanted to have a little conversation with me before I went. He said he had heard or

understood, that Ward's folks were after me in regard to this law suit. Then he asked me if I heard any conversation between Captain Green and Captain Richardson, about Captain Green's going down at that time on the boat. I told him I had heard a little, but I told him I had slipped along so far without having it known that I knew anything about it, that I did not wish to say anything about it. I told him I guessed he had better let me alone and not say anything about it. He asked me, then, if I did not think that at the time of the conversation between Captain Green and Captain Richardson, which I mentioned, Captain Green was merely going down on a visit to his folks. I said no. He went away then, and was gone may be half an hour or three-quarters. He came back with some writing on a piece of paper and read it over to me, and said he just merely wanted it to show it to the judge. He said if things worked around as he expected they would, that he expected to have the management of the boats, and said if he did, that I would be all right. He asked me my first name, and took and signed my name to it, and went off with it. I don't recollect whether or not he asked me to sign the paper.

Re cross-examination.

Ques. In this conversation, Mr. Stone, which you have now related, did you not tell Keating that Captain J. M. Green had got a letter from Detroit, from Captain Ward or some of his men, offering him the steamer Ocean to run? If I have not given the words correctly, tell what did take place on that subject.

(Objected to by the counsel for the appellants because the testimony is irrelevant and incompetent, and taken subject to the objection.)

Ans. I told Captain Keating that I had understood that Captain Green had received a letter something in regard to running the Ocean, that I had heard so; that is all I told him.

BENJAMIN J. STONE.

Deposition of William T. Pease, taken before Amelian Conkling, United States Commissioner for the Northern District of New York, at his office in the City of Buffalo, on the twenty-second day of February, A. D. 1855.

Dep'n of W. T. Pease.

Ques. 1st. What is your age, occupation, and residence, how long have you been a mariner, and how long an officer of a steamboat?

Ans. I am fifty years old, I am a sailor, I reside in Buffalo. I have been a sailor about twenty-five years. I have been an officer of a steamboat fifteen years, and as master.

Ques. 2. If you were in command of a steamer of a still night, going from Buffalo to Detroit, and you should make a white light a half or three-fourths of a point over your larboard bow, what would you do?

Ans. I should put my helm aport a little, I think, or keep steady along until I saw what it was.

Ques. 3. If you were in command of a steamer in a still night, running from twelve to fourteen miles an hour, and if from the absence of signal lights or from any other cause, a propeller should approach you within four or six lengths, and from one to three points off your larboard bow, before you discovered she was not a sail vessel, and if she was running from three to seven miles an hour, and heading across your bows, so that if you stop your engine a collision is apparently inevitable, what would you do?

Ans. I should not stop the engine. I should keep going if a collision was inevitable by stopping.

Ques. 4. If you were in command of steamboat with five hundred passengers on board, and after a severe collision, with your boat cut near to the main hatch, and you were satisfied your vessel must sink, and you were only from one to three miles from shoal water, what would you do, stop in deep water or head your boat for shore?

Ans. I should keep her agoing for the shore if there was any chance of getting there before she sunk.

Ques. 5. Were you acquainted with the steamboat Atlantic, and what, in your opinion, are the proper places for the officer of the deck on board of steamers of her class?

Ans. I was acquainted with her. I should think the proper places would be on the upper deck and on the pilot house and around it, occasionally going to look at the compass.

Ques. 6. Would you consider it bad seamanship for the officer of the deck of such a steamer from time to time during his watch, to step into the pilot house, examine the compass, and for a few moments to look out ahead from the window, where the pilot house is as elevated and has as commanding a view as that of the Atlantic, and during the year 1852, was it not customary so to do?

Ans. I should not consider it bad seamanship, and it was, and is customary.

Ques. 7. During the year 1852 was it customary on the lakes for steamers to carry an additional look-out, other than the officer of the deck and wheelsman, and is it now except upon those vessels that run only in the night time?

Ans. In the year 1852 I think it was not customary, and it is not now, except upon some particular boats which leave this port in the night; we carry one on our boat, and so the Crescent City and Queen of the West.

Ques. 8. In a night when you can see a light from two to four miles off, would it be bad seamanship to leave the deck in charge of the second mate, and is it usual and customary so to do?

Ans. I think it is not bad seamanship, and it is customary. The 2d mate is supposed to be a man capable of taking charge of the deck in such a night.

Ques. 9. Are there any circumstances in which, when you make

the red light of an approaching steamer, you would not show your red light in passing?

Ans. No. If I saw their red light, I would show mine, of course.

Ques. 10. If you were in command of a propeller, on your way from the south shore to the Welland Canal, and you should make the red light of a steamer from one to two and a half points over your starboard bow, what would you do? would you attempt to cross her bows, or would you port your helm, show your red light, and go ahead with confidence?

Ans. I should either stop, if I was not sure that I could get across and clear her, or I should port, and go around under her stern.

Ques. 11. Suppose yourself in command of a propeller, going from the south shore to the Welland Canal, and you make the red light of a steamer two or two and a half points on your starboard bow, and you know her to be a north shore boat, on her way from Buffalo to Detroit, what would you do, attempt to cross her bows, or port your helm, show your red light, and go ahead with confidence?

(Not put.)

Ques. 12. If you were in command of a propeller on a still night, and should make a light two and a half points over your starboard bow, supposed to be two or three miles off, and such light does not on observation close in on you, would it be good seamanship, or in any way necessary, to slow your engine, or is such practice usual or not?

Ans. No; I think not until you got closer than that, for you would never get through the lakes, to be stopping in that way all the time.

Ques. 14. Suppose yourself in command of a large class passage steamer like the Atlantic, she well lighted and manned, the weather calm, the night such that a light may be seen from one and a half to three miles, you make the light of what you suppose to be a sail vessel one or three-fourths of a point on your larboard bow, and on porting, you readily opened the light a point or three-fourths of a point more where the light continued to bear, would good seamanship require you to slow your steamer, or is it ever done, to pass a vessel under such circumstances?

Ans. I should not slow my engine under such circumstances.

Ques. 15. In such circumstances, when you show your red light, do you rely with confidence in the approaching craft keeping her course, or porting her wheel and going to the right?

Ans. If it is a steamboat, we do. We suppose she will show her red light, and keep on the right side: the same if a propeller.

Ques. 16. And if the approaching craft is a propeller, what is her duty?

Ans. To show her red light.

Ques. 18. If the second mate is a competent seaman, is it in conformity with the usages and customs of navigation to leave him,

when the weather is calm, the night such that a light may be seen one and a half to three miles off, and to intrust the deck to him, and is this not far more common than for the captain, in good weather, to stand watch in the night?

Ans. I think it is.

Ques. 19. How far should colored signal lights be seen by approaching vessels in an ordinary night?

Ans. I think not over four miles; from four to five miles at furthest.

Ques. 20. If signal lights (colored) are not burning so as to be seen one or two miles off, in an ordinary night, would you consider them proper lights for a propeller or steamer?

Ans. No, I think not.

Cross-examination.

Ques. 1. If you were in command of a steamboat running in the night season, past Long Point, at the rate of fifteen miles an hour, and should make a white light, belonging to a vessel whose character and course are unknown, three-fourths of a point over your larboard bow, distant about one mile, and upon porting your helm, should find yourself nearing without materially opening the light, would you not consider that ordinary prudence required you to ease your engine, and run with diminished speed?

Ans. I should. If I could not alter the bearing of the light, I should consider it prudent to slow the engine or stop it if necessary.

Ques. 2. You are in command of a steamboat, running past Long Point in the night, you make a white light on your larboard bow, and first "port," and then "hard aport" your helm, when you find yourself unexpectedly laying your course across the bow of a propeller, and within twice your length of her, would you not at once stop and reverse your engine?

Ans. Yes, if I thought I could not clear her. I should do that if I thought there was no chance in getting by her.

Ques. 3. You are in command of a steampacket with 500 passengers on board, running up the north shore of Lake Erie in the night season, you have a collision with a propeller deeply laden, by which you have experienced an injury, but to what extent is not known, neither do you know how badly you have injured the other vessel, would not a due regard to the safety of life on both vessels require you to stop until the comparative injuries are ascertained?

Ans. I should think it prudent to do it, to stop and ascertain, if possible, the extent of the damage.

Ques. 4. Cannot you have a more unobstructed view from the top of the pilot house, on such a steamer as the Atlantic, than from the inside thereof? Can you not control the movements of a steamboat better from the top of the pilot house than from any other point?

Ans. I think you can have a more unobstructed view, and that is

the usual place for managing the vessel, for stopping and starting the vessel, and regulating her movements.

Ques. 5. You are in command of a steamboat running up the north shore in the night season, and passing Long Point at a time when there is such a haze upon the water that you are obliged to climb up the shrouds to make the light on the point three miles distance, you are running fifteen miles an hour, and have five hundred passengers on board; under such circumstances, would you intrust the deck to a second mate who had never served as an officer of the deck until that season, and would you permit your vessel to run at such a time, in such a place, with so great an amount of life and property at stake, with no other or better "look-out" than such a second mate, inside the pilot house with the wheelsman?

Ans. I think not.

Ques. 6. You are in command of a propeller in a hazy night, steering N. E. by E., you make a light two and a half points off your starboard bow, which opens gradually to four points; and then becomes stationary, excepting that you are apparently closing in with it; all at once a large steamer opens out of the haze, and shows you her red light at three times her length distant, say nine hundred feet, bearing from four to six points off your larboard bow; she is heading, when you first see her red light, for your pilot house, as near as you can judge; under these circumstances, admitting the steamer to be running fourteen miles an hour, and the propeller three and a half, would you feel it your duty to port your helm and show your light? Would you not rather "check down," and if possible stop and back your propeller?

Ans. I should think it would be proper to check or stop the propeller.

Ques. 7. Are not the vessels which carry two white lights at the mast head readily distinguished on Lake Erie as "Lower-Lakers," or such as run through the Welland Canal to Lake Ontario?

Ans. I have always known them to be Lower Lakers when I have seen such vessels.

Ques. 8. Do sail vessels show two white lights at one and the same mast head upon Lake Erie?

Ans. I have never seen them showing two.

Ques. 9. If there be a haze upon the surface of the water rising in height some twenty or thirty feet, and so thick that Long Point light cannot be seen from the deck at three miles distance, will you not be likely to see the two white lights at the mast head of a lower lake propeller, when you are wholly unable to make out her red and green lights, placed in front of the pilot house?

Ans. Of course, you could see them first.

Ques. 10. Is it not properly the duty of the man or boy called a "watchman," on board of steamboats on Lake Erie, to look out for thieves and fires on board the vessel? Is this watchman commonly set on a prominent part of the steamer forward, to look out for the

approach of other vessels? Is not this last named duty generally performed by the officer of the deck and a "hand," stationed forward for the express purpose?

Ans. It is not the duty of the watchman to watch for vessels; his duties are below, to watch for thieves, the baggage and the like; he is a different man from the look-out; we have both.

Ques. 11. Suppose the steamboat Atlantic to have been *to have been* steering her course for Detroit on the night of the 20th August, 1852, S. W. by W., and running at top speed, 15 miles an hour, she makes the two white lights at mast head of the propeller Ogdensburgh, running northeast by east for the Welland Canal, at from three to seven miles an hour, off her larboard bow ¾ of a point, and one mile distant; the Atlantic immediately throws her helm "aport," and within a half a minute thereafter "hard aport," without checking her speed; the Ogdensburgh does not alter her course; is it possible there would have been a collision by which the Atlantic would have been cut open at her forward larboard gangway, under these circumstances? If the Atlantic struck the propeller, after running a mile with her helm first aport and then hard aport, at top speed, the propeller all the while holding her course, must not the Atlantic have been considerably to the southward of the course of the propeller when she first put her helm aport?

Ans. No, sir. There could not have been a collision under these circumstances. By porting her helm, she must be going away from the light. I think she must have been to the southward, or else she would not have struck.

Ques. 12. If two steam vessels are approaching each other on parallel lines, with a berth between them of three hundred feet, do nautical rules, as you understand them, require these vessels or either of them to port the helm?

Ans. I should think not, when they are close together. If they were three or four miles apart, probably they would port the helm, and go to the right of each other.

W. T. PEASE.

Deposition of John Wilson, taken before Amelian Conkling, United States Commissioner for the Northern District of New York, at his office in the City of Buffalo, on the 22d day of February, A. D. 1855.

Dep'n of Jno. Wilson.

Ques. 1. What is your age, occupation, and residence, how long have you been a mariner, and how long an officer of a steamboat?

Ans. I am 34 years old. I am a sailor. I am a resident of Buffalo. I have been a sailor about eighteen years. I have run propellers and steamboats about the last six years. For the last two years, I have had charge of the Empire State and Southern Michigan, of the Michigan Southern Railroad line.

Ques. 2. If you were in command of a steamer, of a still night, going from Buffalo to Detroit, and you should make a white light a half a point or three-fourths of a point over your larboard bow, what would you do?

Ans. I should, I think, port my wheel a quarter or a half a point. In a very still night, I might keep my course. If I changed at all, I should port a little.

Ques. 3. If you were in command of a steamer, in a still night, running from twelve to fourteen miles an hour, and if, from the absence of signal lights, or from any other cause, a propeller should approach you within four or six lengths, and from one to three points off your larboard bow, before you discovered she was not a sail vessel, and if she was runnning from three to seven miles an hour, and heading across your bows, so that if you stop your engine a collision is apparently inevitable, what would you do?

Ans. I have had a case of that kind occur; one last season. There are cases where I think it is necessary not to stop the boat; but in most of cases where a vessel is so close on to me that I thought there was great danger of her coming into me, I should port my wheel. Last season I thus avoided a collision by about four feet space, which would have occurred had I stopped my boat.

Ques. 4. If you were in command of a steamboat with five hundred passengers on board, and after a severe collision, with your boat cut near to the main hatch, and you were satisfied your vessel must sink, and you were only from one to three miles from shoal water, what would you do? stop in deep water, or head your boat for shore?

Ans. I should head my boat for shore; there is only one way that I see; at that distance, if a man thought his boat was going down, of course, he would run for shore.

Ques. 5. Were you acquainted with the steamboat Atlantic, and what, in your opinion, are the proper places for the officer of the deck on board of steamers of her class?

Ans. I was acquainted somewhat with the Atlantic. I have before now, when I have been on watch, gone into the pilot-house. There is a difference of opinion about that. If it were blowing very hard at night, I think then it might be better to go into the pilot-house; you might see better, the eye would be protected. If I was meeting a steam vessel or a light right ahead, or anywhere so that I thought there was any danger of its coming near my vessel, I should go on top of the pilot-house.

Ques. 6. Would you consider it bad seamanship for the officer of the deck of such a steamer, from time to time during his watch to step into the pilot-house, examine his compass, and for a few moments to look out ahead from the windows, where the pilot-house is as elevated and has as commanding a view as that of the Atlantic, and [illegible]g the year 1852, was it not customary so to do?

[illegible]. I should not consider it bad seamanship, and I suppose it

has always been customary. It is proper to go into the pilot-house to see that the wheelsman is keeping his proper course, and it is necessary to exercise this supervision over the wheelsman.

Ques. 7. During the year 1852, was it customary on the lakes for steamers to carry an additional look-out, other than the officer of the deck and wheelsman, and is it now, except upon these vessels that run only in the night time?

Ans. I was on Lake Superior in 1852, and I don't know what was then customary on Lake Erie. I have never carried a man to act as look-out except two trips on the Southern Michigan. There was such a man on the boat when I took charge of her; I changed his duties, and put him below, because I thought his presence lessened the vigilance of the officer of the deck; a good many times I went on to the deck and could not find the mate or second mate, but could always find the look-out. I mean I could not find the officer as promptly as I desired to.

Ques. 8. In a night when you can see a light from two to four miles off, would it be bad seamanship to leave the deck in charge of the second mate, and is it usual and customary so to do?

Ans. Supposing no light to be in sight, I should feel perfectly safe in leaving the deck in charge of the 2d mate if he was a good man.

Ques. 9. Are there any circumstances in which, when you make the red light of an approaching steamer, you would not show your red light in passing?

Ans. I always make it a point to pass to the right when you make the red light.

Ques. 12. If you were in command of a propeller on a still night, and should make a light two and a half points over your starboard bows, supposed to be two or three miles off, and such light does not on observation close in on you, would it be good seamanship, or in any way necessary to slow your engine, or is such practice usual or not?

Ans. If she were two or three miles off, I should think not. In a still, quiet night, we feel safe in running closer than at other times.

Ques. 14. Suppose yourself in command of a large class passage steamer like the Atlantic, she well lighted and manned, the weather calm, the night such that a light may be seen from one and a half to three miles, you make the light of what you suppose to be a sail vessel one point or three-fourths of a point on your larboard bow, and on porting you readily opened the light a point or three-fourths of a point more, where the light continued to bear would good seamanship require you to slow your steamer, or is it ever done to pass a vessel under such circumstances?

Ans. No, I don't see the necessity of stopping or slowing under circumstances, in making the light on the larboard bow we feel freer from danger, and less caution is necessary than when making a light on the starboard bow.

Ques. 15. In such circumstances when you show your red light, do you rely with confidence on the approaching craft keeping her course, or porting her wheel and going to the right?

Ans. We do.

Ques. 16. And if the approaching craft is a propeller, what is her duty?

Ans. To keep to the right—being seen off the steamer's larboard bow.

Ques. 18. If the second mate is a competent man, is it in conformity with the usages and customs of navigation to leave him when the weather is calm, the night such that a light may be seen one and a half to three miles off, and to entrust the deck to him, and is this not far more common than for the captain in good weather to stand watch in the night?

Ans. I have left the second mate on deck in good weather, in a good night, and have turned in; I generally calculate to have men that are competent to take charge of the boat, even if I am off the boat. It would depend on the men altogether.

Ques. 19. How far should colored signal lights be seen by approaching vessels, in an ordinary night?

Ans. I never thought that signal lights could be seen over four miles. It is a good light that can be seen four miles.

Ques. 20. If signal lights, colored, are not burning so as to be seen one or two miles off, in an ordinary night, would you consider them proper lights for a propeller or a steamer?

Ans. No, sir.

Cross-examination.

Ques. 1. If you were in command of a steamboat, running in the night season past Long Point, at the rate of fifteen miles an hour, and should make a white light, belonging to a vessel whose character and course are unknown, three-fourths of a point over your larboard bow, distant about one mile, and upon porting your helm should find yourself nearing without materially opening the light, would you not consider that ordinary prudence required you to ease your engine, and run with diminished speed?

Ans. If she was three-fourths of a point on the larboard bow, I should probably run, and if the light seemed to be closing in I should port my wheel, and if there seemed to be danger of a collision, I should probably stop.

Ques. You are in command of a steamboat running past Long Point in the night, you make a white light on your larboard bow, and first "port" and then "hard aport" your helm, when you find yourself unexpectedly laying your course across the bows of a propeller, and within twice your length of her, would you not at once stop and reverse your engine?

Ans. No, sir; not within two lengths of the propeller. I can give you two reasons why I would not do it. In the first place, I

should put my wheel hard aport, to swing clear of her if I could; I should proceed upon the supposition that the propeller would see my red light and would port her helm.

Ques. 3. You are in command of a steampacket with 500 passengers on board, running up the north shore of Lake Erie, in the night season; you have a collision with a propeller deeply laden, by which you have experienced an injury, but to what extent is not known, neither do you know how badly you have injured the other vessel; would not a due regard to the safety of life on both vessels require you to stop until the comparative injuries were ascertained?

Ans. If I thought my boat was going down I should not stop, on the supposition that we were not more than two miles from the land. If I were on the pilot-house, and did not know that my boat was damaged very badly, I should stop.

Ques. 4. Cannot you have a more unobstructed view from the top of the pilot-house, on such a steamer as the Atlantic, than from the inside thereof? Can you not control the movements of a steamer better from the top of the pilot-house than from any other point?

Ans. I always go on top of the pilot-house on meeting a light, where there is any danger, for the reason that I can best manage the boat there. I think the view is better from there than from any other point.

Ques. 5. You are in command of a steamboat running up the north shore in the night season, and passing Long Point at a time when there is such a haze upon the water that you are obliged to climb up the shrouds to make the light at the point at three miles distance; you are running fifteen miles an hour, and have five hundred passengers on board; under such circumstances would you entrust the deck to the second mate, who had never served as an officer of the deck until that season? and would you permit your vessel to run at such time, at such a place, and with so great an amount of life and property at stake, with no other or better "look-out" than such a second mate, inside the pilot-house with the wheelsman?

Ans. When you cannot see Long Point light at a distance of three miles, without going into the shrouds, it is a pretty thick night, and under such circumstances I should prefer keeping the deck myself.

Ques. 6. You are in command of a propeller in a hazy night, steering N. E. by E., you make a light two and a half points off your starboard bow, which opens gradually to four points, and then becomes stationary, excepting that you are apparently closing in with it, all at once a large steamer opens out of the haze, and shows you her red light at three times her length distant, say nine hundred feet, bearing from four to six points off your larboard bow; she is heading, when you first see her red light, for your pilot-house as near as you can judge, under these circumstances, admitting the steamer to be running fourteen miles an hour, and the propeller three and a half, would you feel it to be your duty to port your

helm and show your red light? would you not rather "check down," and, if possible, stop and back your propeller?

Ans. I should stop, and port my wheel both.

Ques. 7. Are not the vessels which carry two white lights at the masthead readily distinguished on Lake Erie as "Lower Lakers," or such as run through the Welland Canal to Lake Ontario?

Ans. I knew that propellers carried two lights at the masthead on Lake Ontario, but I was not aware that they did on Lake Erie.

Ques. 8. Do sail vessels show two white lights at one and the same masthead upon Lake Erie?

Ans. No, sir, I have never known them to do so.

Ques. 9. If there be a haze upon the water in height some twenty to thirty feet, and so thick that Long Point light cannot be seen from the deck at three miles distance, will you not be likely to see the two white lights at the masthead of a lower lake propeller when you are wholly unable to make out her red and green lights placed in front of the pilot house?

Ans. Yes, you would.

Ques. 11. Suppose the steamboat Atlantic to have been steering her course for Detroit on the night of the 20th August, 1852, S. W. by W., and running at top speed 15 miles an hour, she make the two white lights at masthead of the propeller Ogdensburgh running N. E. by E. for the Welland Canal at from three to seven miles an hour off her larboard bow ¾ of a point and one mile distant, the Atlantic immediately throws her helm "aport," and within half a minute thereafter "hard aport," without checking her speed, the Ogdensburgh does not alter her course, is it possible that there would have been a collision by which the Atlantic would have been cut open at her forward larboard gangway under these circumstances? If the Atlantic struck the propeller after running a mile with her helm first aport and then hard aport at top speed, the propeller all the while holding her course, must not the Atlantic have been considerably to the southward of the course of the propeller when she first put her helm aport?

Ans. Under such circumstances there could have been no collision. Under the circumstances stated in the question the Atlantic must have been to the southward of the course of the propeller.

J. WILSON.

Deposition of I. M. Green, taken before John C. Grannis, United States Commissioner for the Northern District of Ohio, at his office in the City of Cleveland, on the 12th day of October, A. D. 1855.

Dep'n of I. M. Green.

Witness saith: I knew the propeller Boston. She run between Cleveland and Ogdensburgh in the season of 1854. De Grass McNett was master of her that season. I mean the same De Grass McNett who was mate of the Ogdensburgh at the time of the collision between

her and the Atlantic in 1852. The propeller Boston was lost in the season of 1854, while said De Grass McNett was master of her.

Ques. How was the propeller Boston lost?

Ans. She was lost by a collision with a Canada vessel, so I was informed by De Grass McNett and the Capt. of the Canada vessel with which she had the collision. I also saw her pilot-house; it was brought into Oswego after the collision. I knew it when I saw it.

Ques. How long was it before the Boston was lost that you last saw her?

Ans. I saw her in the Welland Canal at Allensburgh, and was on board of her the evening of the night before the night she was lost.

Ques. Were Capt. McNett and his family on board of her when you saw her at that time?

Ans. They were.

Ques. Are you the same Isaac M. Green who testified before this commissioner in this case in the fall of A. D. 1854?

Ans. Yes, sir.

Cross-examined by R. P. Spalding, Esq., Att'y for Deft's.

Ques. Is not this the third deposition you have given in this cause on the part of the libellants, E. B. Ward *et als?*

Ans. It is.

Ques. Are you not now sailing the steamboat Cleveland belonging to Mr. Ward? or if not now, did you not recently command her?

Ans. I have not sailed her for a month, as I have been sick. I did recently command her. I expect to return to her and take the command again.

Ques. Did you see the Canadian vessel which sunk the Boston either before or afterwards? if so, tell, if you can, her name, and to what class of vessels she belonged, whether a ship, brig, or schooner, about how large she was, and how she was loaded at the time.

Ans. I saw her a few days after the Boston was sunk at Port Dalhusia, in Canada. I can't be positive as to her name. I think it was the Plymouth. I think, although I cannot be positive, that she was what we call a barque, a three-masted vessel. She was a vessel of between three and four hundred tons. She was light or nearly so when I saw her.

Ques. How long did the Boston stay above water after this British vessel run into her, and was it in the daytime or night season?

Ans. It was in the night. I can't say how long she stayed above water, as near as I could learn from said masters she sunk very quick. It was a narrow escape for those on board.

Ques. Did you not learn that the emergency was so great that the females on board the Boston went into the small boat without having time to add any apparel to their night clothes, and in this way went into Genesee River?

Ans. I learned that they made their escape with little or no additions to their night clothes.

Ques. What propeller did Capt. McNett take charge of after the loss of the Boston?

Ans. The Louisville propeller running in the same line.

Ques. What propeller has he commanded during the present season?

Ans. The Granite State, belonging to the same line, and belonging to Chamberlain & Crawford, who owned the other two.

Ques. Was you not at one time on board the Granite State yourself?

Ans. I commanded the Granite State part of one season.

Ques. Is she not a first-rate vessel of her class?

Ans. Yes, sir. She was then and is now so far as I know.

Re-examined by Capt. Gardner.

State whether the propellers Granite State, Louisville, and Boston, are freight boats or not?

Ans. The Boston, I believe, was a freight and passenger boat. I believe they all were.

Ques. Did you learn from the captains of the Boston or the Canadian vessel how this collision took place?

Ans. The captain of the Canadian vessel told me he was reefing at the time, that it was blowing fresh, and that he did not see anything of the propeller until she was right under his bows, and that then he had no chance to haul up or keep away his vessel.

Ques. What condition is a vessel in when she is reefing?

Ans. When a vessel is reefing she is the same as when hove to. She is unmanageable, and you can do nothing with her but wear her; that is, put the helm up and go round with the wind. It is always considered, when a vessel is reefing, that everything else must keep out of the way.

(So much of these questions and answers as include hearsay testimony are objected to by respondent's Proctor as incompetent.)

I. M. GREEN.

Deposition of Jacob Houghton, taken before John C. Grannis, United States Commissioner for the Northern District of Ohio, at his office in the city of Cleveland, on the 9th day of October, A. D. 1855.

Dep'n of Jacob Houghton.

1st. What is your residence, occupation, and what experience have you had as an engineer, and connection with the Topographical corps of engineers of the United States?

Ans. I reside in Detroit. I am a civil engineer. I have been engaged in engineering for ten years. I was engaged for about two years with the corps of Topographical Engineers in the survey of the lakes, under Col. Carney, Capt. McComb, and Capt. Scammon (then Lieut. Scammon).

2d. Will you look at this map (upon which you will please sign your name), and state by what authority it is published and under whose supervision? Explain fully, and state also its degree of correctness.

Ans. This map is issued, I suppose, by the War Department, and it was compiled from surveys executed by the Topographical Engineers. I believe that the map is correct from my knowledge of the manner in which the surveys are conducted. There are so many means of testing the correctness of the work that there is hardly a possibility of their being wrong. To this map I have signed my name, and marked it number one.

3d. Will you look at this map (upon which you will please sign your name), and state if it is a correct enlargement of the map above referred to, and how you know it to be correct?

Ans. This map, to which I have signed my name, and which I have marked number two, is a correct enlargement of the map first marked by me number one, and above referred to. I know it to be correct, because I have examined it and compared it instrumentally with said map.

4th. Have you examined the courses on said map marked respectively E. N. E., N. E. by E., and all the other lines marked as courses, and the distances marked in miles near these courses, and are they correct mathematically, and state how you know them to be correct?

Ans. I have examined them, and know them all to be correct, and that the distances are correct as stated on said map, with the exception of the line out of Buffalo, that should be W. S. W., instead of S. W. by W. $\frac{3}{4}$ W., making a difference of $\frac{1}{4}$ of a point.

5th. If a vessel should start from a point four miles off the land abreast of Grand River, and steer east-northeast, how near the Erie Peninsula would they pass, and how is that line designated on said enlarged map?

Ans. That line is not designated on the map except by pencil-mark; a vessel starting in that way would run through the Peninsula.

6th. If a vessel should start from a point about 10 miles off the land abreast of Ashtabula, and steer east-northeast, how far from Erie Peninsula would they pass, and how far from Long Point, and what line designates that course on said enlarged map?

Ans. She would pass six miles from Erie Peninsula and eighteen and one-half miles from Long Point, designated by a full black line the most of the way, with an extension, a dotted red.

7th. If a vessel should start from a point 10 miles from the land abreast of Ashtabula, and should steer northeast by east, how far from Erie Peninsula would they pass, and how far south from the point marked on said enlarged map as the point of collision, and how is said line designated on said map?

Ans. The nearest point to Erie Peninsula would be thirteen miles,

and nine miles south from the point marked as the place of collision, and designated by a full blue line.

8th. If a vessel should start from a point ten miles off Ashtabula at 8 o'clock P. M., and run at the rate of 7½ miles an hour till 12 o'clock midnight, on a course east-northeast, where would said vessel be, how far from land on the south shore, how far from the place marked "place of collision" on the enlarged map, and how is said vessel's position at 12 o'clock marked on said map?

Ans. She would be nine miles from land on the south shore, and twenty-one and half miles from the place of collision. It is marked by the intersection of two black lines and a dotted.

9th. And if from the place where she would be at 12 o'clock, she then steer northeast by east at same rate until 2 o'clock, how near would she pass the point of collision?

Ans. It would be about 14 miles from the point of collision?

10th. And starting from the point where said vessel would be at 12 o'clock, what course would she have to steer to reach the place of collision as marked on said map?

Ans. About N. by E. ½ E.

11th. What is the course for vessels to steer from Buffalo to pass from 1 to 2 miles from Long Point?

Ans. W. S. W.

12th. What is the distance and bearing of Long Point light from the place of collision as marked on said map?

Ans. S. W.; the distance is four and ¾ miles.

13th. Is the scale of miles as marked on said map correct and true?

Ans. Yes, sir.

Cross-examined by R. P. Spalding, Esq.

Ques. In answering the foregoing questions in regard to the position of the vessel after running certain courses for given periods of time, have you not predicated your answers strictly upon the hypothesis that the vessel runs the true magnetic courses without any variation on account of the wind or current?

Ans. I have.

JACOB HOUGHTON.

Deposition of Gleason F. Lewis, taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office in the city of Cleveland, on the 11th day of October, A. D. 1854.

Dep'n of G. F. Lewis.

1st. Please state your age, residence, and occupation, and the length of time you have resided in Cleveland.

Ans. I am thirty years of age. I reside in Cleveland, Cuyahoga County, Ohio, and am by occupation a broker.

2d. Do you remember having a conversation with De Grass Mc-

Nett, the mate of the Ogdensburgh, during the time that his deposition was taken, or on the occasion of its being taken before R. C. Parsons at Cleveland, when D. R. Tilden, G. F. Lewis and Hon. Edward Wade were present, about the 25th of January, 1853?

Ans. I do, sir. I heard the conversation spoken of; I did not have it with him, but heard it from time to time during said examination.

3d. What did he then and there say about seeing the red light of the Atlantic, and when he first saw her light?

Ans. He said he saw the red light of a boat, which was the Atlantic, over the propeller's starboard bow about fifteen minutes before the collision.

4th. What did he say about his intention and expectation of crossing the bows of the Atlantic, and how he became disappointed? State what illustrations, if any he made, and here give in full the conversation and argument made by McNett on that occasion?

Ans. He represented this light as steering up the north shore of Lake Erie, and said he thought she was so far to the right that he could pass her bows. He said he was coming from the south shore of Lake Erie. He demonstrated it by laying two books upon the table, showing that the courses of the propeller lay across that of the Atlantic in front. He said he expected to cross the course of the Atlantic ahead of her, but that she ported and turned out of her course and prevented his doing so. I think that these remarks of McNett were not put down in the deposition, because it was a conversation not drawn out by the attorney for respondents.

Cross-examined by Judge Spalding.

Ques. Did you not purchase an interest in the steamer Atlantic, or in the claim to damages against the owners of the propeller after the steamer was sunk; and, if so, of whom did you make the purchase, and to what extent?

Ans. I did. I purchased Capt. Clement's interest, one-tenth part, and I hold the interest in the boat yet, but have no interest in the suit.

Ques. Suppose the libellants in this suit, Capt. Ward and Capt. Clement, recovered of Chamberlain and Crawford the full value of the Atlantic, say seventy-five or one hundred thousand dollars, would you not esteem yourself entitled to any share of it from Capt. Ward and Capt. Clement in consequence of your ownership of the one-tenth?

Ans. No, because they have given me up my note for one thousand dollars, and I have signed off all claims on account of the suit. I don't expect to have one cent.

Ques. How much of your money do they still retain?

Ans. One thousand dollars.

G. F. LEWIS.

Deposition of Edward Wade, taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office in the city of Cleveland, on the 11th day of October, A. D. 1854.

Dep'n of Edwd. Wade.

1st. Please state your age, residence, and occupation, and the length of time you have resided in Cleveland.

Ans. I am fifty-one years of age; am by occupation an attorney and counsellor at law, and a resident of East Cleveland.

2d. Do you remember having a conversation with De Grass McNett, the mate of the Ogdensburgh, during the time that his deposition was taken, or on the occasion of its being taken before R. C. Parsons at Cleveland, when D. R. Tilden, G. F. Lewis, and Hon. Edward Wade were present, about the 25th of January, 1853?

Ans. He heard the conversations, but thinks they were mostly had with Mr. Tiden and Lewis in the room, and while they were preparing to take the depositions, or about the time they commenced. I was attending as one of the counsel for the libellants.

3d. What did he then and there say about seeing the red light of the Atlantic, and when he first saw her light?

Ans. He said, to the best of my recollection, that the first he saw of the boat that proved to be the Atlantic, he saw her red light. He said something about its bearing over his starboard bow, but its exact position I do not recollect, nor whether he intended to give the position in which it appeared to him precisely. I recollect it more distinctly because it had as I thought an important bearing upon the trial of the case.

4th. What did he say about his intention and expectation of crossing the bows of the Atlantic, and how he became disappointed? State what illustrations, if any he made, and here give in full the conversation and argument made by McNett on that occasion?

Ans. He stated that he put his helm aport or starboard, or some sailor phrase, I cannot tell which; but said if the steamboat had kept her course he would cross under her bows or in front of her. There was considerable more conversation which I cannot now state. There was a conversation about the change of the Atlantic's course, giving her a longer distance to run, bringing about a collision, but whether it was connected with the conversation about the lights I am uncertain.

Cross-examined by Judge Spalding.

Ques. Who was present on that occasion with a view to look after the interest of the libellants, E. B. Ward *et al?* Were not the persons, Danl. R. Tilden and yourself, as attorneys, and Gleason F. Lewis, the agent of Capt. Ward and himself, part owners of the Atlantic?

Ans. Mr. Tilden, Mr. Paine and myself were then acting as counsel for the libellants, and Gleason F. Lewis was there manifest-

ing some interest in the matter, but what relation he sustained to the libellants I do not know. I do not mean that Mr. Tilden, Mr. Paine and myself were there together during all the time the depositions were being taken, but one of us was there all of the time.

Ques. Was not I present all the time during the taking of those depositions, so far as your observation extended, acting in behalf of the respondents, Chamberlain and Crawford?

Ans. You was there I think, all of the time that I was there. That is my impression, I am not certain.

Ques. Have you any doubts upon that subject?

Ans. There is a period of the time about which I have doubts. There was a time when it is my impression you was not there. That was when I first went in. I am not certain whether you was there or not. The rest of the time I was there I am confident you was present.

Ques. Whose deposition was taken when you first went in, and when you suppose I was absent?

Ans. It must have been the first witness, but who it was I cannot tell.

Ques. Was this conversation which you say you heard, on that occasion, between Mr. McNett and some other person or persons, a part of his narrative given to the commissioner to be inserted in his deposition, or not?

Ans. As to that matter I cannot say positively, but supposed that it was a part of his testimony, but whether at the time that I heard it, it was formally given to the commissioner to be written down as a part of the witness's narration, I could not say, for the reason that there was a considerable conversation there which it would be difficult for the commissioner to put down in the order in which it was given by the witness.

Ques. Who was that commissioner?

Ans. Mr. R. C. Parsons.

Ques. Do you recollect whether Andrew J. McNett, a lawer from Buffalo, and the brother of the witness McNett, assisted me at any time during the course of that examination?

Ans. There was a gentleman present from abroad with whom Judge Spalding consulted or held conversation, as I supposed in relation to the case, but what his name was, or whether a brother of the witness, or at what particular portion of the examination he was present, I do not know.

Ques. At what time did this examination take place?

Ans. I should think it was the fall or winter before the trial in the District Court.

Ques. Do you remember how far off McNett said he first discovered the steamer's light, whether it was two, three, or four miles?

Ans. I cannot positively, my impression is that it was some two miles.

Ques. May you not have confounded what McNett said in regard

to his first discovering a light over his starboard bow some two or three miles distant, with the notion that he said he saw at that time a red light?

Ans. I think not.

Ques. Do you swear positively that you heard McNett say when giving testimony before R. C. Parsons, Esq., U. S. Commissioner, in the month of January, A. D. 1853, that he, McNett, saw the steamboat's red light, when he first discovered any light at all, on board of what proved to be said steamboat, or, in other words, do you swear that McNett said the first light he discovered was a red light?

Ans. I swear positively that at the time of the examination of a man called McNett before Mr. Com'r Parsons, I should think in January, or in the winter of 1853, that said witness in the course of the conversation held during that examination in Mr. Parsons' office, stated that he discovered a red light of what afterwards proved to be the steamer Atlantic, and it is my impression very decidedly, that he stated that it was the first he discovered of her.

Ques. Did not McNett say on that occasion, that the first he discovered of the hull of the steamboat Atlantic, she came out of the haze or fog, three or four times her length from him, and seemed to be heading right on to him?

Ans. There was testimony to that effect, or that in substance, given, by some witness, I don't remember which one, excepting so far as coming out of the haze is concerned, which I don't remember hearing stated.

Ques. Did he not say on that occasion that he saw the steamboat's signal light red and green, when she came head on his starboard bow, within three or four times her length of him?

Ans. I cannot pretend to recollect the whole of the testimony given then. There was testimony of that nature then, but of what witness I do not know.

Ques. Where did McNett say the propeller Ogdensburgh had come from, and where she was bound?

Ans. McNett or some of the witnesses stated, I should think, that the Ogdensburgh left Cleveland for Gravelly Bay.

Ques. At what time did he say he left Cleveland?

Ans. The time that was stated I do not exactly remember, I think he said it was in the daytime in the afternoon, and that he got down where the collision was in the night.

Ques. What course did he say he steered after leaving Cleveland?

Ans. I don't remember.

Ques. What course did he say he was steering at the time the collision took place?

Ans. I do not remember—I do not remember the courses there stated at all.

Ques. How far did he say the propeller was off Ashtabula, when abreast of that place?

Ans. Some witness put it ten or twelve miles off, I think; I don't

know what any one particular witness said about those distances, but my impression is that some one or more of them put it ten or twelve miles off.

EDW'D WADE.

Deposition of Daniel R. Tilden, taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the 11th day of October, A. D. 1854.

Dep'n of D. R. Tilden.

Ques. 1st. Please state your age, residence and occupation, and the length of time you have resided in Cleveland.

Ans. I am forty-nine years of age, and am a lawer by occupation; I have lived in Cleveland two and a half years.

2d. Do you remember having a conversation with De Grass McNett, the mate of the Ogdensburgh, during the time that his deposition was taken, or on the occasion of its being taken, before R. C. Parsons, at Cleveland, when D. R. Tilden, G. F. Lewis, and Hon. Edward Wade were present, about the 25th of January, 1853?

Ans. I could not say that I had a conversation with McNett, but was present as one of the counsel of E. B. Ward, Libellant in the case, *vs.* The Ogdensburgh, at a time when testimony was taken at the office of Mr. Parsons. The testimony of Mr. McNett was taken at this time. He went on to state how the collision occurred between the Atlantic and the Ogdensburgh. I am not able to say positively that questions were put to McNett outside of his deposition, but statements were made by him as to the transaction, and as I think in reply to inquiries made of him by some one on one side of the case while he was being examined in chief.

3d. What did he then and there say about seeing the red light of the Atlantic, and when he first saw the light?

Ans. Mr. McNett, as I understood him, said he saw the light of the steamer some minutes before the collision, and I think he said eight or ten minutes. Mr. Lewis asked me to inquire of McNett what light it was he saw, and he said the red light; I do not recollect at what time in the examination it was that I asked him the questions.

4th. What did he say about his intention and expectation of crossing the bows of the Atlantic, and how he became disappointed? state what illustrations, if any, he made, and here give in full the conversation and argument made by McNett on that occasion.

Ans. McNett, in his testimony, stated how he intended to pass the steamer, and books and some miniature boats were moved upon the table showing the manner in which he intended to pass the boat; my recollection is not distinct as to whether he first intended to pass ahead or astern of the steamer, but I recollect that he said that when he was close upon the steamer that he intended to pass ahead of her, and should have done so had not the steamer ported her helm.

DAN'L R. TILDEN.

Agreement of Parties as to Protest being used as Evidence.

E. B. WARD *et al.*
vs.
CHAMBERLAIN & CRAWFORD.

In the Circuit Court of the U. S., Southern Dist. of Ohio, Nov. 18th, 1855. "It is agreed by the undersigned counsel for the respective parties (among other things) that if the deposition of I. M. Green, taken in relation to the loss of the Boston, be used in evidence, the protest noted by the officers of said Boston propeller, soon after the accident, shall also be used as evidence.

(Signed) H. H. EMMONS, *for Libellants.*
R. P. SPALDING, *for Respondents.*

Protest.

Protest referred to in the foregoing agreement.

UNITED STATES OF AMERICA,
State of Ohio, Cuyahoga Co., ss.

To all people to whom these presents shall come or may concern. I, J. L. Weatherly, a Public Notary, in and for the State of Ohio, by letters patent under the great seal of the said State, duly commissioned and sworn, dwelling in the City of Cleveland, send greeting:

Know ye, that on the third day of August, in the year of our Lord one thousand eight hundred and fifty-four, before me, the said notary, appeared De Grass McNett, of the propeller called the Boston, of Cleveland, burthen 259 tons, and noted in due form of law with me, the said notary, his protest, for the uses and purposes hereinafter mentioned, and now at this day, to wit, the day of the date hereof, before me, the said notary, at Cleveland aforesaid, again comes the said De Grass McNett and requires me to extend his protest, and, together with the said McNett, also comes James Martin, mate, Eli McNett, wheelsman, Thomas Whelan, first engineer, and Thomas Worrell, second engineer, belonging to the aforesaid propeller, all of whom being by me duly sworn, voluntarily, freely, and solemnly do declare and depose as follows, that is to say, that on the dates named below he, the said McNett, set sail and departed in and with the said propeller Boston, as master thereof, from the various ports named below, having on board the said pro., a cargo as stated below, and bound for the port of Ogdensburgh; that the said propeller Boston was then stout, stanch, and strong, had her cargo well and sufficiently stowed and secured, was well masted, manned, tackled, victualled, apparelled, and appointed, and was in every respect fit for sea and the voyage she was about to undertake.

The above named declarants state that there was laden on board the said propeller, at Detroit, a quantity of flour, wool, fish, and pot-

ashes; that they left there on Thursday, the 20th July, 1854, and arrived at Toledo, on Friday, for the purpose of discharging some m'dse, and took some flour and butter on board. Then proceeded to Cleveland, arriving there about midnight on Friday, and on Saturday took on board a quantity of corn, wool, whiskey, flour, pork, butter, and other articles. Left Cleveland on Sunday, at 2 P.M., and arrived at Fairport for wood between 6 and 7 o'clock same evening. Left there on Monday morning and arrived at the Welland Canal at 7 P. M., same day. Owing to obstructions in the canal they did not get through to Port Dalhousie until Friday morning, 28th, at 10½ o'clock. The weather was then good, with the wind light from the southwest. At 12½ o'clock arrived at Youngtown for wood. Left there at 4 P.M., with light breeze from the south. On leaving Niagara River shaped the propeller's course east by north, continuing that course until 10 P. M., when, supposing the propeller to be about sixteen miles westerly of the "Devil's Nose," and the wind freshening from the south, changed her course to east half north, at that time the weather was cloudy and dark, but no haze on the water. Before dark the propeller had placed her green light on the starboard side, and red light on the larboard side of the hurricane deck, and two white lights on the cross-trees. About half-past eleven o'clock saw a vessel's white light about three points on the starboard bow. Close watch was kept of it, and the mate then in charge of the propeller ordered the helmsman to keep her on her course and not let her swing to the southward or eastward. The mate, then on the pilot-house on watch, could see no variation in the course of the vessel, and as no other light than the white one was visible, he supposed the vessel was on a parallel course with the propeller, and running down the lake. Suddenly the light on the vessel changed its bearing, closing in upon the propeller. The mate immediately called the captain, and at that time nothing was visible of the vessel but the light. The captain came instantly upon deck and rang the bell to stop the engine, which was obeyed. At that time the reflection from the propeller's lights showed the hull of the vessel, and showed she was steering directly for the propeller. The mate ordered the wheel hard a-starboard, and as there was still some headway on the propeller she fell off and almost immediately the vessel struck the propeller about twenty feet from the stem, staving in the starboard bow and tearing the planking clear from the stem. In a very few minutes the water was on the main deck of the propeller, and as there was no possibility of saving her or any part of the cargo, the boats were all lowered, and, as soon as the passengers and crew were embarked, pushed off from the propeller, which, in a very few minutes, sunk to her upper works, and they soon floated off.

At the time of the collision Thomas Worrell, second engineer, and two of the deck hands jumped on the vessel and found her to be the barque Playmouth, of Kingston, Canada, William Muir, Master. About two hours after the collision the vessel got back to the place

of disaster, the lights of the propeller still burning, and took on board a part of the crew. The rest of the crew in the propeller's boats were landed a few miles below the "Devil's Nose."

Propeller Boston's protest.

(Signed) J. L. WEATHERLY,
Notary Public.

And the said master further says, that as all the damage and injury which already has or may hereafter appear to have happened or accrued to the said propeller, or said cargo, has been occasioned solely by the circumstances hereinbefore stated, and cannot or ought to be attributed to any insufficiency of the said propeller Boston, or default of him, this deponent, his officers or crew. He now requires me, the said notary, to make his protest and this public act thereof, that the same may serve and be of full force and value, as of right shall appertain. And thereupon the said master doth protest, and I, the said notary, at his special instance and request, do, by these presents, publicly and solemnly protest against winds, weather, and seas, and the collision before named, and against all and every accident, matter, and thing, had and met with as aforesaid, whereby or by means whereof the said propeller or her cargo already has or hereafter shall appear to have suffered or sustained damage or injury for all losses, costs, charges, expenses, damages, and injury, which the said propeller or the owner or owners of the said propeller, or the owners, freighters, or shippers of her said cargo or any other person or persons interested or concerned in either, already have or may hereafter pay, sustain, incur, or be put unto, by or on account of the premises, or for which the insurer or insurers of the said propeller or her cargo is or are respectively liable to pay or make contribution or average according to custom, or their respective contracts or obligations, and that no part of such losses and expenses already incurred or hereafter to be incurred do fall on him, the said master, his officers or crew.

Thus done and protested in the City of Cleveland this 3d day of August, in the year of our Lord one thousand eight hundred and fifty-four.

In testimony whereof, I, the said notary, have subscribed these presents, and have also caused my seal of office to be hereunto affixed the day and year last above written.

[SEAL.] (Signed) J. L. WEATHERLY,
Notary Public.

STATE OF OHIO,
Cuyahoga Co., ss:

James Martin, mate, Eli McNett, wheelsman, Thomas Wheelan, first engineer, Thomas Worrel, 2d engineer, and De Grass McNett, master seaman, of and belonging to propeller called the Boston, being severally duly sworn, do severally make oath and say that the fore-

going instrument of protest hath been clearly read over to them, these deponents, and that the several matters and things therein contained are right and true in all respects, as the same are therein particularly alleged, declared, and set forth.

(Signed) DE GRASS McNETT, *Master*,
JAMES MARTIN, *Mate*,
ELI McNETT,
THOS. WHEELAN,
his
THOMAS + WORRALL.
mark

Subscribed and sworn to before me this 3d day of August, 1854.

J. L. WEATHERLY,
Notary Public for Cuyahoga Co., Ohio.

Depositions taken and used as evidence on behalf of the respondents in this cause, as follows, to wit:—

Deposition of Robert Richardson, taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the 23d day of September, A. D. 1854.

Dep'n of Robt. Richardson.

Interrogatories by R. P. Spalding, Esq.

1st. Are you the same Robert Richardson who commanded the propeller Ogdensburgh at the time of the collision, on the 20th August, 1852, with the steamer Atlantic, and the same who gave a deposition in this case the winter following?

Ans. I am the same person.

Ques. Are you still in command of that same propeller, and if so, where is she lying at this time?

Ans. I am. She is now in Cuyahoga River, at the port of Cleveland, and has been since last Monday.

3d. I wish to know the distance by actual measurement between the stem of the propeller Ogdensburgh and the centre of stateroom No. 1 on the starboard side, or the room that was occupied by Mr. Ring and his wife on the night of the collision?

Ans. Just forty-six feet.

4th. How is the room you occupied at that time, and still occupy situated in respect to the stateroom used by Mr. Ring and wife, and what space is there between the two rooms?

Ans. My room is right forward of it on the starboard side; there is a hall between my room and that one. The width of that hall is two feet and nine inches.

5th. What is the distance on promenade deck from stem of the propeller to the front window of your office or stateroom?

Ans. Twenty-eight feet and six inches.

6th. What is the size of the window in stateroom No. 1 on the starboard side, or the room occupied by Mr. and Mrs. Ring?

Ans. There are four lights of glass in it, each light being seven by twelve. The window is two feet and four inches long, and one foot and five inches wide.

7th. How many berths are there in that stateroom, and how are they situated in respect to the window?

Ans. There are three berths; they run fore and aft of the vessel right alongside of the window, so that the window forms part of the side of the berth.

8th. How much of that window can the occupant of the middle berth have the benefit of?

Ans. He can have the benefit of part of two panes each 7 by 10 inches, the whole length of each pane being 12 inches.

9th. How are those berths made up, that is, where are the pillows placed?

Ans. They are made up with pillows towards the bows of the vessel, so that a person will lay with his head towards the bows of the vessel and his feet towards the stern, that is the way they have always been made up.

10th. What is the distance by actual measurement from the centre of the pillow in the middle berth of Mr. and Mrs. Ring's stateroom, or stateroom No. 1 on the starboard side, to the forward side of the window?

Ans. From centre of pillow to edge of the forward pane of glass is one foot nine inches and a half.

11th. What is the space between the middle and upper berths, and how long are they and how wide?

Ans. The space is 18¼ inches. The berths are 6 feet and ½ inch long, and 22½ inches wide.

12th. What is the distance from the stem of the propeller to the top of the pilot-house, where the mate stood to ring the engine bells?

Ans. Thirty feet.

13th. What is the distance from the door of the clerk's office (Mr. Harris' room), to the fore-rigging, or rigging for your mast?

Ans. Forty-two feet and eight inches to the after-part of the fore-rigging.

14th. What is the distance from the door of the clerk's office to the stem of the propeller?

Ans. Seventy-eight feet and two inches.

15th. What is the whole length of the propeller?

Ans. One hundred and forty-five feet, or nearly that, measuring on the main deck.

16th. When did you make the above measurements, and who assisted you, and at whose request was it done?

Ans. I made them yesterday, September 22d, 1854, with the assistance of Captain Keating and Mr. Harris, my clerk, and at the request of Judge Spalding.

17th. After the collision, and before you proceeded to the sinking steamer, did you order Thos. McGrain, the steward, or any other person to trim the signal light? Was said light trimmed to your knowledge during that space of time?

Ans. No, sir, I did not. It was not trimmed to my knowledge at all.

18th. What did you say, if anything, on that occasion, about getting you a light?

Ans. I called for a light, that is a common hand-lamp, to go and examine the injury to the vessel between decks; the reason was that the lamp that was between decks, and would have served for the same purpose, was broken by the collision. It might have been McGrain who gave me that light, I don't remember certain. That was the light I requested Mr. Ring to go and hold.

(Mr. Newberry objects to so much of the above answer as is not responsive.)

19th. Did you purchase a new set of globe lamps for your mast-head or cross-trees during the season of 1852, and if so, at what time and place did you procure them? What lights were at the cross-trees at the time of the collision?

Ans. I did purchase a set of globe lamps for the cross-trees at Oswego, on the 29th day of July, 1852. The lights I then purchased were at the cross-trees at the time of the collision.

20th. Did you afterwards, during the same season, purchase another set of lamps for the cross-trees?

Ans. No, sir; I did not.

21st. Will you please to produce the original bill of those lamps, as receipted to your clerk, that it may be attached to your deposition as schedule "A."

Ans. Here is the bill (marked by the Com'r schedule "A.")

22d. Please to say what conversation, if any, you had with Mr. McNett after the collision, and while your vessel lay at rest, in respect to his seeing the red light of the steamer, or in regard to his not putting his helm "aport." What did you say to McNett on the subject of his management of the propeller?

Ans. I said no such thing to him. I asked him if he saw the lights of the steamer. He said he did, and when he first saw them he thought the steamer was 3 or 4 miles off, and three or four points off from our starboard bow. I asked him also if he had stopped the engine before the collision; he said he had, and that the propeller was backing at the time of the collision. (Mr. Newberry objects to the above question—is irrelevant, incompetent, and leading; and to so much of the answer also, as is not responsive.)

23d. At what time did you finally leave the deck on the night of the collision to retire to rest, and when you went to bed how was the propeller steering by the compass?

Ans. I went to bed that morning at half past one o'clock; I

looked at the clock, so that I know exactly. The vessel was then heading by the compass northeast by east.

24th. Did you notice the signal light and the lights at the mast-head at the time you was about leaving the deck at half past one o'clock, and if so, how did they appear?

Ans. I did notice them, they were in good order, and were burning well.

25th. State whether the lamp in your state-room was burning at the time of the collision, and how long it continued to burn?

Ans. It was, and burned until the passengers of the Atlantic took possession of my room. I gave them possession of my room when they came on board.

26th. About how far did you run from the place of collision to reach the steamer?

Ans. I suppose about three miles.

27th. How far does the Atlantic lie from the Canada shore, or how far from shore was she when she went down?

Ans. I suppose that she is about four miles from the Canada shore.

28th. Have you at any time, in the presence and hearing of any person whatever, expressed disapprobation of the conduct of Mr. McNett in the management of the propeller on the night of the collision? if so, state when, where, and in what language.

Ans. No, sir; I never had any reason to.

29th. Please to describe the signal lantern which you used on board the Ogdensburgh at the time of the collision? Was there more than one lamp in it, and how many wicks had that lamp? At that time had either pane of glass been broken out, or was the lantern sound?

Ans. It was a large triangular one, with a large lamp in it, with four wicks in the lamp, two lights of glass in the lantern, with a red glass on the larboard or left hand side, and a green glass on the starboard or right hand side, and two reflectors inside, one for each glass. The angle of the lantern being presented in front. The glasses were not broken then; they were sound and in good order, perfect. In March, 1853, one of those glasses was broken, and I replaced it again the next trip. There was but one lamp inside the lantern.

30th. When did you first discover the steamer, and how was she coming on to you at the time?

Ans. I first discovered her through the window in my door on the starboard side; she appeared to be coming some four or five points off from our starboard bow.

31st. Did you hear McNett's statement before the inquest at Erie; and, if so, tell what he said about seeing the Atlantic's "red signal light" or any other light three or four miles off?

Ans. I heard McNett's statement at the inquest; was there all the time. I heard McNett say he saw her lights some three or four

miles off. Never heard him say he saw any particular light at that time.

(Question and answer objected to by Mr. Newberry, as irrelevant and incompetent.)

32d. What did McNett say on that occasion about the effect if he had stopped the propeller five minutes sooner?

Ans. He said there that if he had stopped the boat five minutes sooner, or that if he had stopped in Cleveland, it was not likely the collision would have occurred.

(Mr. Newberry objects to above question and answer as incompetent and irrelevant.)

33d. Did McNett say anything on that occasion about "porting" her helm at all?

Ans. No, sir.

(Objected to for same reason.)

34th. Did you at any time or in any place observe Mr. McNett making diagrams or lines of courses with chalk or with his knife upon the deck or on the dock at Erie, to illustrate the courses and relative positions of the two vessels prior to the collision?

Ans. No, sir, I did not.

(Objected to for same reason and as leading.)

35th. What was the state of the public mind at Erie at that time; was there much excitement, and state whether you did or did not leave the harbor of Erie with your vessel sooner than you otherwise would on account of that excitement?

Ans. There was a great deal of excitement there. I left sooner than I would have done on account of that excitement. I did not feel safe there.

(Same objection.)

36th. How was it at the inquest; was there great confusion or otherwise?

Ans. There was great confusion there. In asking questions they all asked together. It was general talk. There was a great deal of excitement. What I mean is that no one asked single questions; they all asked together.

(Same objection.)

37th. How long would your signal lamp and your lamps at the cross-trees burn without being trimmed?

Ans. From 12 to 14 hours. I have tried them a great many times since, so that I have a good chance to judge.

38th. At what hour of the day did you get alongside of the dock at Erie?

Ans. We got there about 10 o'clock in the forenoon.

39th. I wish you now to state what cause existed, if any, for rivalry, jealousy, or dissatisfaction of any sort, between the owners and agents of the line of propellers to which the Ogdensburgh belonged and Capt. Ward's steamboats.

Ans. I never heard of such a thing until now. I never heard it talked of in any shape. I know of no cause for it.

(Objected to by Mr. Newberry.)

40th. What remarks, if any, derogatory to Capt. Ward's steamers, or that denoted a bad state of feeling towards them, were at any time made in your hearing on board the Ogdensburgh by any of her officers or crew anterior to the collision?

Ans. I never heard anything at all.

(Objected to as irrelevant.)

41st. During the afternoon of the 19th August, 1852, and after you left the port of Cleveland, what one of Captain Ward's steamers did you see, or what one might have been seen at that time on that route?

Ans. I did not see any that I remember of. I don't think they had any running on this side the lake at that time.

Cross-examined by Mr. Newberry.

Ques. How many seasons have you been sailing continuously?

Ans. This makes twenty-four.

Ques. Did you ever live in Auburn, New York?

Ans. Yes, sir.

Ques. When was it, how long since, and in what were you engaged while there?

Ans. I think I left there 26 years ago. I worked at moulding while I was there.

Ques. Where or with whom did you live and board?

Ans. With a man by the name of Dexter.

Ques. Is there a State's prison there, and were you a resident of that prison?

Ans. There is, but I was never a resident of it.

Ques. Was you not sentenced to the State's prison, and did you not serve out your time in it?

Ans. No, sir. Never was tried for anything in my life.

Ques. In whose employ are you now, and how long have you so been?

Ans. In the employ of Chamberlain and Crawford, the defendants. I have been in their employ since March, 1852.

Ques. Do you know Capt. Green, and did you know him in August, 1852?

Ans. I know Capt. Isaac Green, who was in the employ of Chamberlain and Crawford in August, 1852. He was employed as the mate of the Granite State.

Ques. Did you see him and have a conversation with him in the city of Cleveland on the day before or the same day that the Ogdensburgh left Cleveland on the trip on which she had the collision with the Atlantic?

Ans. I saw him, but had no conversation with him. I mean that

I presume I saw him, because I knew he was here fitting out the Granite State. Can't say positively that I saw him.

Ques. Did you then and there say to him, in substance or effect, that you wished he would go with you on that trip or on your boat as mate, that you was not very well, or not well enough to keep the watch, and that you had no confidence in your first mate; or did you have any part of such conversation with him, and, if so, what part?

Ans. No, sir. I don't remember having any such conversation with him, or any part of it.

Ques. Will you swear positively that you had no such conversation?

Ans. I don't want to swear positive. I don't think I had any such conversation. Haven't the most distant recollection of any such conversation.

Ques. Is it such a conversation as you would have been likely to have under the circumstances?

Ans. I don't think it is. I don't remember being sick at that time. I had no reason for being dissatisfied with my mate at that time.

Ques. Was your testimony taken the 25th January, 1853, or thereabouts, in this case, before R. C. Parsons, Esq., U. S. Comm'r at Cleveland, Ohio.

Ans. It was taken before him at Cleveland about that time.

Ques. On your examination in chief, at that time, did you swear as follows: "I run down opposite Grand River, Ohio, by day light; after I got to Grand River, I steered the boat east-northeast for a little while, perhaps for about an hour; then we steered the boat northeast by east, until we came into collision with the Atlantic;" and is that true?

Ans. I should think that the deposition so reads, and that so far as my observation went, that it is true. I did not see the compass all the while, nor did I steer the boat all the while, but I put men there to do so.

Ques. Did you also, at the same time and place, swear as follows: "The first intimation I had of any trouble was the ringing of the bell wires. The bell wires lead through some small staples from the pilot house to the engine, right under my room, and in working the wires, they make some considerable noise. The noise, I think, of the bell wires awoke me first: they generally do wake me if moved. I got right up, my clothes being on, as I always sleep in them on Lake Erie, that is, my pantaloons, and took my boots the first thing; one of them I put on, then I stepped to the door with another one in my hand; I opened the door, which opens right out on the promenade deck; soon as I opened the door, the steamboat struck us;" and is that true?

Ans. I should think I did, sir; I think it true.

Ques. Did you also swear, after the collision, and while your boat was lying still, as follows: "I then went on to the hurricane deck.

I could see Long Point light, then some four or five miles from us, I should think probable. I should think it bore about north-north-east; "and is it true?

Ans. I should think I so swore, and that it is true, with the exception of the distance: it should be two to three miles instead of four to five miles.

Ques. Did you also swear in that deposition, that—"The lamps in your colored signal light were not trimmed after the collision, and that they were burning when you got into Erie, the next morning;" and is it true?

Ans. I don't remember about the trimming part: don't know that it was asked me. I testified, as stated, about the lights burning when we got into Erie. It is true about the burning. It is not true that they were trimmed after the collision, so far as I know.

Ques. Were you sworn in this case on the trial at Columbus?

Ans. Yes, sir.

Ques. Did you then and there swear that your colored signal light was not trimmed at all after the collision, or to that effect?

Ans. I don't remember the question being asked me there. If it was, I answered it as I do now, that the light was not trimmed.

Ques. Was your colored signal lantern in its usual place forward of the pilot-house when you arrived at Erie, and was it burning then?

Ans. I should think it was.

Ques. Are you positive of it?

Ans. I don't know that I am positive. I think it was there.

Ques. When was the colored signal lantern changed to the top of the pilot-house—before or after the collision?

Ans. After the collision.

Ques. How long had William Barnes, the wheelsman, been on the Ogdensburgh previous to the collision?

Ans. I don't remember. I can't say whether that was his first trip or not.

Ques. Do you know Mr. Ring and his wife, who were examined in this case yesterday, and were they on board of your boat at the time of the collision?

Ans. Yes, sir.

Ques. Were you engaged playing euchre or cards with them or others on the evening preceding the collision in the cabin of your boat?

Ans. Yes, sir. I played a while, and then tried to show Mrs. Ring.

Ques. How far is it from Cleveland to Grand Rivér, Ohio?

Ans. Twenty-eight or thirty miles, as I have heard it called.

Ques. How far from Cleveland to abreast of Ashtabula.

Ans. It is generally called sixty miles.

Ques. How far from Cleveland to abreast of Conneaut.

Ans. It is called seventy-five miles.

Ques. How far from Cleveland to Long Point light?

Ans. About one hundred and ten miles, I think.

Ques. What do you suppose the average speed of the Ogdensburgh to have been on the night of the collision?

Ans. I should suppose about eight miles an hour.

Ques. Were Mr. Barnes, your wheelsman, and McPherson, your second mate, good and competent seamen, and were they acquainted with their business?

Ans. I don't know. I consider Barnes a good wheelsman. I don't know as to his sailorship. I consider McPherson competent for second mate of a vessel.

Ques. Are you in the habit of shipping men as mate and wheelsmen, as commander of a vessel whose qualities as seamen you do not know?

Ans. No, sir. There are cases where we are obliged to do such things.

Ques. In the measurements given in your examination in chief, who made the minutes from which you read?

Ans. I made them, and helped make the measurement.

Ques. Have you ever heard read the questions asked you by Mr. Spalding this morning?

Ans. Yes, sir. I heard all but one or two of them last evening.

Ques. Have you heard your former testimony, or any part of it, read recently?

Ans. Yes, I heard part of it read last night; the part alluding to the course, I think.

Ques. Would you have remembered the time when those new globe lights were bought, apart from the bill which is annexed to your deposition?

Ans. I should not have remembered the dates, but I was always positive they were bought before the collision.

Ques. Was not your colored signal lantern a four-sided square lantern, and placed in its position with one corner pointing forward?

Ans. No, sir. It is not exactly a square lantern, but its corner pointed forward. It is four-sided, but is not exactly square, nearly so.

Ques. Did you see Ashtabula light that night, and how far were you from it?

Ans. Yes, sir. I supposed we were some eight or ten miles from it. I did not see Conneaut light.

ROBERT RICHARDSON.

Schedule A referred to in the foregoing deposition.

Schedule A.

Oswego, July 29th, 1852.

Propeller Ogdensburgh	To C. C. Cooper	*Dr.*
5½ " spun yarn, 14 c.		77
6 yds. cotton canvass, 2 s. 6		1 88
2 7-inch blocks, 6 d.		88
3 small blocks, 1 s. 6		56
2½ " hooks and thimbles, 1 s.		31
½ " sail twine, 4 s.		25
4 " yard rope, 1 s.		50
3½ " Hambroline, 2 s.		88
2 lanterns, brass mounted, 20 s.		5 00
		$11 03

Rec'd payment,
C. C. COOPER. J. C.

Deposition of Byron C. Harris taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office in the city of Cleveland, on the 23d day of September, A. D. 1854.

Dep'n of Byron C. Harris.

Interrogatories by R. P. Spalding, Esq.

No. 1. Are you the same Byron C. Harris, who was clerk of the propeller Ogdensburgh at the time of the collision in August, 1852, and who gave a deposition in this case the following winter?

Ans. I am.

No. 2. Are you at this time acting in the same capacity on board the same vessel?

Ans. I am.

No. 3. Did you assist Capt. Richardson in taking the measurements on board the propeller yesterday?

Ans. I did, sir.

No. 4. When you first discovered the bows of the steamboat Atlantic passing the stem of the propeller (as narrated in your former deposition), from what direction did she appear to come? and state how rapidly her stem crossed your line of vision before she struck the propeller.

Ans. She came from the starboard side of the propeller and passed to the larboard side. Her stem passed very rapidly. She seemed to be going very fast.

No. 5. In going forward from your office (on the larboard side of the propeller to the fore-rigging), did you see anything of the steamboat or her lights before you reached the forerigging and saw her bows push past your stem?

Ans. I did not see the steamboat or her lights, or any lights until I reached the fore-rigging.

No. 6. Was the signal lamp of the propeller trimmed after the collision and before you went to the wreck, to your knowledge?

Ans. No, sir, not to my knowledge.

No. 7. How was it burning when you first went forward after the collision?

Ans. The lamps were in good order and burning well; I noticed them particularly. I noticed particularly the globe lamps at the masthead.

No. 8. Have you heard Mr. Ring say (in conversation) how he discovered those lights to burn immediately after the collision, and what did he say about their attempting to prove that the signal light was trimmed by order of Captain Richardson?

Ans. I have heard Mr. Ring say several times in conversation, that the lights were burning brightly and were in good order, and that he thought that it was absurd for the plaintiffs to attempt to prove that the signal lights were trimmed after the collision.

(Question and answer objected to as irrelevant and incompetent, and because no proper foundation has been laid for asking it.)

No. 9. Where, and at what time were the globe lamps purchased, that hung at the propeller's cross-trees at the time of the collision; did you pay for them, and have you the receipt?

Ans. They were purchased at Oswego, of C. C. Cooper, on the 29th of July, 1852. The bill attached to Capt. Richardson's deposition and marked schedule "A," and here shown to me, is the bill of them, and the receipt for the payment of them. I paid that bill at the time it bears date.

No. 10. How was Mr. McNett employed in and about the vessel when she lay in the harbor of Erie alongside the dock the day after the collision? and state whether you at any time saw him making a diagram on the deck, or on the dock, to show the courses or positions of the two vessels before the collision.

Ans. He was employed in attending to his duties as mate. He took off our deck load in order to repair the injuries to the propeller, and he was superintending taking the freight from the vessel and putting it upon the dock. I did not see him making any diagrams on the dock or on the deck, or explaining how the collision happened.

No. 11. Did you hear Captain Richardson give testimony here to day, and if not, why not?

Ans. I did not, because Mr. Newberry, Mr. Ward's attorney, objected to my remaining in the room while it was being taken, and I went out.

No. 12. At what times and places have you held conversation with Mr. Ring, as above stated?

Ans. The first conversation I had with him was in Oswego, in July, 1854. The next was on our passage from Ogdensburgh to

Cleveland, in August, 1854. Mr. Ring got on board at Oswego and came on with us to Cleveland.

Cross-examined by Mr. Newberry.

Ques. In whose employ are you now, and how long have you so been?

Ans. In the employ of Chamberlain & Crawford, one of the parties to this suit, and have been in their employ since the 1st of May, 1852.

Ques. What time did you retire on the night of the collision?

Ans. I think at about eleven o'clock.

Ques. Were you engaged during any part of that evening in the cabin of the Ogdensburgh playing at euchre or cards, and if so, who was engaged in the game?

Ans. I think very probably I was, I can't be certain. Persons were playing in the cabin.

Ques. Was Capt. Richardson there any part of the time engaged in playing cards?

Ans. I cannot say whether he was or not.

Ques. How much of the time up to 11 o'clock, were you in the cabin?

Ans. It is impossible to say precisely. I might have been there half the evening up to 11 o'clock.

Ques. Were you in your own room part of the time?

Ans. Yes, sir.

Ques. Where do the rudder chains pass astern from the wheel to the rudder?

Ans. They pass close under the promenade deck, one each side the centre of the vessel fore and aft, attached to the under side of the promenade deck.

Re-examined by Judge Spalding.

Ques. What two young ladies were in the cabin that evening, and under whose protection were they?

Ans. One was an aunt of mine, and the other was a friend of hers. They were going from here to Ogdensburgh and back, and were under my protection.

Ques. State if you are a son of Mr. J. A. Harris of this city.

Ans. I am.

Cross-examination by Mr. Newberry resumed.

Ques. Have you ever heard read the questions asked you by Mr. Spalding before they were asked you on this examination, and when, and by whom?

Ans. Yes sir. I heard them read this morning by Judge Spalding in his office, except those written here during the examination.

BYRON C. HARRIS.

Deposition of Benjamin C. Turner, taken before Amelian Conkling, United States Commissioner for the Northern District of New York, at his office in the city of Buffalo on the 12th day of October, A. D. 1854.

Dep'n of B. C. Turner.

Witness saith: I am forty years old, am a farmer by occupation, I reside at Oswego, New York. I have sailed about fifteen years preceding the fall of 1848. I was master of a sailing vessel the last eleven years before 1848. I was on the steamer Atlantic, at the time of the collision with the propeller Ogdensburgh, on the morning of the twentieth day of August, 1852. I was a passenger on her, I was going on her to Detroit.

(Mr. Gardner, the counsel for the libellants, here interposes an objection to all questions relating to occurrences after the collision took place, and the following testimony is taken subject to such objection, and the counsel now requests that the questions should be reduced to writing, and also the answers, and that that shall be the method of taking the testimony, and Mr. McNett assents that the remaining testimony be so taken.)

Ques. Will you be good enough to describe the passage of the steamer Atlantic on the trip from Buffalo, to the place of the occurrence of the collision, and up to the time when you were taken on board of the propeller Ogdensburgh?

Ans. We left Buffalo about 10 o'clock in the evening of the nineteenth day of August, the collision occurred about two o'clock in the morning of the 20th August, I cannot say certainly, I did not look at my watch, but it was generally said at the time of the occurrence that it was about two o'clock. I was in my berth, and was awakened by the collision. The man travelling with me was also awakened and got up. The man went out into the cabin and returned; we occupied the same state room. In consequence of what he said to me on his return, I got up and looked out into the cabin. I saw on the opposite side where something had run into the boat, and I supposed it, at the time, to be the bowsprit of a vessel. The boat appeared to be then under a full head of steam, as she had been from the time we left Buffalo. I judged from the jar and motion of the boat. I listened then to see if I could hear the bells ring to stop her, and I heard no bell. There was a good deal of confusion in the cabin, and persons were saying that the boat was sinking. I then went out on to the promenade deck forward, on the larboard side, and looked astern and saw the propeller's light over the steamer's larboard quarter. I could just see the light of the propeller over the steamer's larboard quarter; I was satisfied by that, the steamer was heading up the lake, and to the southward of her course. I judged so from the fact of seeing the light as I have mentioned. I started then to go back into the cabin, and saw some persons on the hurricane deck pushing passengers down from that deck who were trying to get up,

and they were ordered to keep down. I then went back into the cabin and heard something said about launching a boat; I went out and looked over from the promenade deck and saw that she was sinking. The lights shone on the water so that I could see that her guards were getting down near to the water. I stood there and saw them launch the boat. The boat filled with water when it was launched, and several persons jumped into it. I then went back into the cabin, and got a table with Vincent H. Burch, who was travelling with me, and he carried the table out on the promenade deck, and carried it aft as far as the wheel-house, and jumped overboard with it, and swam off, both of us, three or four rods from the boat, and the steamer then ranged several rods forward of us, and she seemed to swing around some from us. Her head seemed to swing to the southward—but of course from my position in the water, I could not judge of that very well. The steamer then sunk by the head, her head going down first. She stopped with a portion of her stern and the top of her smoke-pipe sticking out of water. We then swam off. I did not consider it safe to go back to the steamer, supposing that she would sink altogether. About that time we saw something like a dozen men hanging to something at a distance from us—and swam to them. As we came near to it we discovered it to be one of the small boats. They hailed us from the boat, and I gave no answer, nor Burch. We then swam to the boat and took hold of it. There were two men in the boat, and about a dozen hanging on to it. The two men in the boat bailed her out with two hats, one of which I furnished, and those of us who were in the water held up the boat as far as we were able by treading water. About that time I saw the propeller's light coming towards the steamer. I with the others then got into the boat, and the next thing, we were hailed by two men near by in the water. We remained in the boat until the propeller had picked up all the passengers who were in the water and on the steamer, and we then hailed one of the small boats to give us an oar. They did so, and worked our boat up to the propeller, and we got on board of her.

Ques. How long did you remain in your berth after the collision before you got up?

Ans. I remained until Mr. Burch had got up and gone out into the cabin and returned.

Ques. Were you undressed, and did you dress yourself before you went out?

Ans. I had off all but my shirt and pants, and I put on everything but my boots before I went out. My watch and money were under my pillow, and these I took with me.

Ques. How long did the steamer continue to run after the collision?

Ans. I think she ran at least twenty minutes from the time of the collision until she pitched down by the head.

Ques. How long a time did the engine run after the collision?

Ans. I think the engine must have run some ten minutes or over.

I know it was running when I went out on to the promenade deck the first time, the engine was going smartly then.

Ques. Who were those who were pushing people down from the promenade deck?

Ans. I don't know certainly, but I supposed them to be a portion of the boat crew.

Ques. Who were those whom you saw launching the boat?

Ans. I don't know who they were except what the men told me.

Ques. Do you know who the two persons were whom you saw in the small boat when you came up to her?

Ans. I never saw the men before that I know of; I know where they belonged by what they said.

Ques. Did you hear any one give any orders for the navigation of the steamer after the collision?

Ans. No, sir, I did not.

Ques. Were you in such a position that you would have heard such orders if any had been given?

Ans. I was in the forward part of the cabin and on the promenade deck and near the pilot house.

Ques. Was there an alarm bell rung?

Ans. Not that I heard. I heard them tolling the bell. I did not hear any bell until they were launching the boats, then about that time the big bell was tolled as near as I can remember. I cannot be positive of the exact time, but I think the bell was tolled about the time they were launching the boat.

Ques. Did any one of the officers or crew of the steamer that you saw or heard do anything to quiet or save the passengers?

Ans. I heard no orders given, and saw nothing.

Ques. When you saw the propeller over the larboard-quarter of the steamer what light did you see?

Ans. I am not positive what light I saw.

Ques. Did you see more than one light?

Ans. I am not positive that I saw more than one light.

Ques. When you were in the water and saw the propeller approaching, what lights did you see?

Ans. All that I can say is, that I saw the light coming back, and I supposed it to be the propeller. I cannot say what particular lights they were.

Ques. When she came up to you what lights had she burning?

Ans. I could not say.

Ques. Who was the person who gathered the persons who were in the water?

Ans. I cannot say.

Ques. Suppose a propeller sailing from Cleveland to Gravelly Bay, going N. E. by E., and the wind blowing from the southwest, would the propeller run an air line?

Ans. She ought not to make much drift. If the wind was blowing hard, and she had sail on, &c., it might make a difference, and then

it would depend also upon the steering of the boat. I am not, however, much acquainted with the steering of propellers. I never navigated one.

Ques. Did you see Capt. Petty after you got on board the propeller?

Ans. I saw a man whom they said was Capt. Petty.

Ques. State whether the man whom you so saw appeared as if he had received an injury?

Ans. I did not see that he was hurt in any way.

Cross-examination.

Ques. When you sailed did steamers carry colored signal lights? (Objected to as immaterial and answered subject to objection.)

Ans. They did not. I don't know, and never have informed myself in relation to signal lights. I last sailed on the Robert Wood, and sailed on her two years. She was owned by Daniel Fitzhugh. I first sailed the Aurora Borealis. She was a foretopsail schooner. I sailed her two years. I never saw the engine of the steamer Atlantic running after the collision. I heard it running. I was in the saloon and in the state-room, and I think it was the 2d state-room forward on the starboard side. I am now confident that I heard the engine run when I was in my state-room forward. I should now think that the engine of the Atlantic was in motion as much as ten minutes after the collision. I did not look at my watch. I measure time by the incident that occurred.

Ques. Were you excited at any time during the first ten minutes after the collision?

Ans. I was not. I did not speak a word during the time louder than I am now speaking.

Ques. Were you excited for the first fifteen or twenty minutes after the collision any more than you be now?

Ans. I was not frightened.

Ques. Were you for the first half hour after the collision frightened any more than you be now?

Ans. I was not frightened. I knew what I was about.

Ques. Was you frightened, sir, when you launched yourself into the lake from the steamer Atlantic?

Ans. I was not thrown off from my balance. I should judge that I was not frightened from the course I took.

Ques. Do you think that you could measure time on that occasion as well as you can now, at the present time?

Ans. I don't think that I could in that confusion as well as I can sitting here.

The counsel for the libellants, Mr. Gardner, here offers and proposes "to have the witness' watch taken by the commissioner and for him, the witness, to guess, without looking at the time, the length of one, two, or three minutes, as he chooses to test his ability to measure time."

(Objected to, 1st, because it is not shown that the watch is a true time-keeper; 2d, such a test would not show his ability to judge of time in 1852, under the circumstances described; 3d, the proposition is quackish and absurd. The commissioner decided that the proposition was unusual in its character, and that being objected to the commissioner could not oblige the party to pursue the course indicated.)

Ques. How soon after the collision did you know what kind of a craft it was that had a collision with the Atlantic?

Ans. I saw that it was a propeller when she came back to pick up the persons in the water.

Ques. What kind of a craft did you suppose her to be when you first saw one light upon her from the Atlantic?

Ans. I could not see so as to tell what she was.

Ques. When you went to bed on the night of the collision did you pull off your socks?

Ans. I think I did take off everything but my shirt and pantaloons.

Ques. Did you pull off your neckhandkerchief?

Ans. I did.

Ques. Did you put on your handkerchief and socks before you left your room?

Ans. I did.

Ques. How deep had the Atlantic sunk when you went off into the water?

Ans. Very near to the promenade deck. The water was not much over a foot below the promenade deck when I went off into the water.

Ques. Was it aft or forward of the wheel house that you went over into the water?

Ans. It was aft nearly to the wheel house.

Ques. Where was the Atlantic's boilers and fire that carried her engine, below the main deck or above?

Ans. I don't know.

Ques. How many feet, as near as you can judge, was it from the main deck down to the bottom of the hold?

Ans. I don't know.

Ques. Suppose her hold to be thirteen feet below the main deck, and eight feet from the main deck to the promenade deck, her boilers and furnace within two or three feet of the bottom of the hold, her boilers entirely under the main deck, and on the forward part of the boat, would it be possible for her engine to be in motion when she had sunk within one, two, or three feet of the promenade deck when you got into water?

Ans. I don't say that the engine was going then.

Ques. Under the circumstances in the previous question, provided the engine had already stopped, could the steamer be progressing ahead at the time you got into the water?

Ans. Yes, sir.

Ques. How long, in your opinion, did the steamboat run ahead after the engine stopped?

Ans. I don't know when the engine stopped.

Re-direct.

Ques. How far, in your opinion, did the Atlantic run from the point of collision until she was at rest?

Ans. I think she ran three miles or over.

Ques. If the steamer, immediately after the collision, had been headed towards shore, and she was two miles off Long Point at the time she passed the light, and ran the distance you say she did run, would she have reached shoal water?

(Objected to as irrelevant, and that the subject should have been embraced in the first direct examination. Answered subject to objection.)

Ans. She would.

B. C. TURNER.

Deposition of David S. Walbridge, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at his office in the City of Detroit, on the 9th day of January, A. D. 1855.

Dep'n of D. S. Walbridge.

Witness saith: On the 19th August, 1852, I took passage on the steamer Atlantic, bound for Detroit. She left port at about 10 o'clock P. M., immediately almost after I went aboard. I saw no one that I knew except the clerk. I put my baggage in a state room on the starboard side, forward of the engine room, and without undressing, laid myself down to sleep on a lounge in the cabin, on the larboard side, immediately abaft the cabin door. I laid there asleep until the moment of the collision. The collision awaked me without any heavy jar or concussion, but a loud crashing of timber, like light framework. I got up, and looked at my watch, and found it within a very few minutes of 2 o'clock. Four lights were burning dimly in the cabin, that is, four different chandeliers. I walked immediately, rapidly forward, out on the forward upper deck. No person was on that deck when I got there. I then passed back again through the cabin, and down the companion-way, or stairs, amidships, on to the main deck, and forward to the place where they throw down coal to the furnaces. During all this time, I had seen no one claiming to have, or seeming to exercise any authority or control of anything; on looking down the coal hole to the furnaces, I could see the water working its way back from forward, through or over the pile of coal that lay there. While I was looking there, a man came from forward, whom I supposed, from a remark addressed to him by a fireman standing there, to be the mate. He simply looked down the hole where I was looking, turned about, and went back the way he

came, without speaking to anybody. I then turned and went back the way I came, up to the upper cabin. At the head of the stairs, I was surprised to see it nearly dark in the cabin, the lights nearly out, and as I went into the cabin-door, I thought I saw some person turning down or putting out the last light, which left it entirely dark; am not positive that that is a fact, but I thought so at the time. I then took the lounge, on which I had been sleeping, out on deck, on the larboard side. I thought there was not much buoyancy in it, after I had got it out there. I then left it, and went back into the cabin and got one of the stools they called "Life-preservers." I went out on the deck again then, and made my way on to the extreme upper deck. The engine was still moving, though with a slow motion, nearly stopped. The steam had not been shut off at any time. I should think not over fifteen, or perhaps twenty, minutes had elapsed from the time of the concussion until I got on to the upper deck. The boat was still moving slowly through the water. Up to this time I had seen no officers, or persons exercising authority as officers, attempting to exercise any authority or control over officers or men, or in any other way, from the collision until when I got on to the upper deck. It was a fair starlight night, no moon, perhaps a little fog extending over the surface of the water, but not high, as when I got up on the upper deck there was no mist there. The first I heard of any ringing of the bell was when I went out on to the deck, after getting the stool, to climb up to the upper deck. If it had been ringing before, I had not heard it. Very soon after I had got on to the upper deck, and almost immediately, we passed a boat, swamped, on the starboard side; it seemed to have been launched forward, and to have been swamped. Several persons were clinging to it, and the steamer still had motion enough to carry it past her. Soon after that a boat was launched from the larboard side, and went off, but with few persons in it. Could not see very distinctly from where I was, but could see enough to observe that there were but few persons. I was standing on the starboard wheel-house almost the whole time while I was on the upper deck. I remained there until the wheel-house was submerged, and very soon after that I was taken off by the propeller. Saw Capt. Petty on the propeller. He seemed to have been hurt on his head; he was complaining of it some. Guess he had a bandage on it. I asked him how his head got hurt. He said on stepping from the steamer into a boat, he either tripped, or some one tripped him, and he pitched head foremost into the boat. I saw Mr. Givan, the clerk, on the propeller, very soon after I got aboard of her. Saw him before I did the captain. I asked him how he saved himself (or to that effect).

(Conversation with Mr. Givan objected to, by libellants' proctor, and taken subject to objection.)

Mr. Givan, in answer, said that when the collision occurred, he was asleep in the clerk's office, partially undressed; thinks he had

nothing but his shirt and pantaloons on. That he went out on deck out of the office, immediately on being waked up. Not hearing any alarm or noise, he went back and laid down on his lounge or bed, and got nearly or quite asleep again, when he was wakened by the porter, who came in with two life-preservers. The porter gave him one, and told him the boat was sinking, and he must take care of himself. He took the life-preserver, and about the time he got out the water came over the main deck. He got immediately overboard, but remained clinging to a rope, or something connected with the boat, until he was picked up by a small boat. He opened a blanket or old overcoat he had over his shoulders; showed me the life-preserver still inflated hanging on his arm, and his clothes still dripping wet.

Ques. State under what circumstances you discovered the light which proved to be the light of the propeller Ogdensburgh?

Ans. Don't know that there were any peculiar circumstances. I was standing on the starboard wheel-house. (I saw the light of the propeller immediately after the collision, when she was dropping astern of us—this is not the time to which I allude.) Very soon after I went upon the upper deck, and my impression is very strong that I saw the propeller's light through between the smoke pipes, which would bring her nearly ahead of us, but of that I am not positive. A very great out-cry was made by the passengers who were on the upper deck, perhaps nearly a hundred calling to the propeller for help.

Ques. How did the light of the propeller bear the first time you saw it, immediately after the collision, and from what part of the vessel did you see it? where were you standing?

Ans. I was standing on the upper forward deck, and on the larboard side. I had to lean over the larboard railing a little to see it distinctly astern. It couldn't have been more than 3 or 4 minutes, perhaps not that. It was at the time I spoke of being on the forward deck first.

Ques. How far, in your judgment, did the steamboat run from the time of the collision until her motion stopped entirely?

(Objected to, by libellant's proctor, and taken subject to his objection.)

Ans. I have no means of knowing, only as I can guess at the time. Probably three or four miles. It is a matter of guess-work, or opinion, however.

Ques. What was the appearance of Capt. Petty in regard to his mental sanity when you conversed with him on board the propeller?

Ans. Didn't have very much conversation with him, but should think he was a sound mind, and knew what he was talking about. At the time of this accident I resided, and still reside, in Kalamayoo, Michigan. I am elected to represent the third congressional district of Michigan in Congress.

Cross-examination.

Ques. After the collision, and while wandering around the cabin, did you give any alarm to any of the passengers?

Ans. I didn't wander around the cabin.

Ques. While in the cabin after the collision did you give such alarm?

Ans. While passing from where I slept to the forward deck several persons inquired from the state rooms what the matter was; I answered we had had a collision with something; did not then know with what myself, nor the extent of the damage.

Ques. Was that all the alarm you gave in the cabin at any time after the collision?

Ans. After I had been on the lower deck and seen the water in the hold, and had went in after the lounge or after the stool, or both perhaps, I told several persons in the cabin that we were sinking, but did not raise any cry.

Ques. Did you go into any of the state rooms of the steamer after the collision?

Ans. I went into 3 state rooms, I think, possibly four, when I went into the cabin after the stool, before I found an unoccupied room.

Ques. Were the 2 or 3 you went into occupied?

Ans. Yes, sir.

Ques. Did you give them any warning of the condition of the boat in any way?

Ans. We probably spoke of the condition of the boat; think they were probably getting up in all the rooms that I went into.

Ques. Do you swear positively that you did have such conversation with inmates of all the different rooms?

Ans. No, sir. I don't swear to any such thing.

Ques. Were not the rooms dark, and were not some of the inmates apparently asleep at the time you were in the rooms?

Ans. I have stated before that the cabin was dark, that the lights had been put out, and I only know in regard to the people in the rooms I went into, except the last one, people were stirring and talking. Whether there were any in the rooms asleep or not, I am not able to say.

Ques. During that night of terrible disaster did you assist in preserving any life but your own?

Ans. I decline answering that question.

Ques. While you were in the cabin, seeking means to preserve your own life, did you expect to find the officers of the boat there engaged in the same service?

Ans. I expected I had a right to see the officers of the boat some where on the boat, seeking to preserve somebody's life.

Ques. Did you expect to find the officers of the boat in the cabin and state rooms?

Ans. I expected to find the officers of the boat, some of them in the cabin, or on the forward deck, or on the main deck below, or on the extreme upper deck, but don't know that I saw any of them in either place.

Ques. Over how much of the main deck did your observation extend?

Ans. It extended from a position forward of the clerk's office to forward of the boilers to the coal holes. I passed back and forward. The deck was nearly covered with emigrants, who had gone to sleep there.

Ques. While you were on the main deck there what good could any officer of the boat have done in that place?

Ans. He could have shown a disposition to try to save somebody's life.

Ques. Did you, while in that position, manifest that disposition in any way?

Ans. I have no answer for that.

Ques. While in the cabin, on your return from the main deck, over how much of the cabin did your observation extend?

Ans. As far as I could feel with my hands, and for 3 or 4 state rooms by the sense of feeling, and not by sight. I have said it was dark at that time.

Ques. How long were you on the promenade deck forward, and were you there more than once after the collision?

Ans. I was there but once. I then passed out of the door on the larboard side of the cabin; passed around the pilot-house on to the starboard side, for the purpose of seeing if I could see any one to make an inquiry of, and, not seeing anybody, passed back again by the same door.

(To so much of the foregoing answer as is not responsive, libellants' proctor objects.)

Ques. Will you be pleased to tell us how long in your opinion you were on the promenade deck forward?

Ans. So long as it would take a man to walk at a fair pace from the larboard cabin door forward around the pilot-house and back again by the same door. It might be $\frac{3}{4}$ths or $\frac{1}{2}$ a minute, or a minute and $\frac{1}{4}$; I cannot tell exactly.

Ques. When you walked back from the promenade deck to the companion-way did you stop anywhere?

Ans. No, sir.

Ques. When you went forward on the main deck to the furnaces did you stop on your way?

Ans. I think I did not.

Ques. How long were you going down into the hold?

Ans. Perhaps ten seconds, and perhaps five; possibly twenty.

Ques. Did you go immediately back to the cabin without stopping?

Ans. I think so. Don't recollect stopping; think I did not. It was getting to be rather a hurrying time.

Ques. Did you immediately, on your return to the cabin, take your lounge to the outside?

Ans. As soon as I could.

Ques. How far at that time had the boat sunk?

Ans. I don't know.

Ques. How long did you stay outside before you went back for the stools?

Ans. Can't tell, perhaps a minute or two, long enough to satisfy myself that the lounge had no buoyancy in it.

Ques. How long were you in bringing the stools out after that?

Ans. I think most any body would find it difficult to estimate time under such circumstances, any body can judge how long it would take as well as I can. It might take very likely two minutes, or it might not.

Ques. When you got back with the stools, did you notice how far down the vessel had sunk?

Ans. My recollection is that when I got outside the cabin with the stools, prepared to get up on the upper deck, the water was over the main deck midships; am not, however, very certain.

Ques. When you saw the propeller's light from the forward promenade deck, how far off did you think she was?

Ans. I supposed but few rods astern of the steamboat. It might have been the length of the boat, or say 20 rods or more; simply saw her lights astern as I leaned over the railing.

Ques. How far had the steamer sunk when you got on the upper deck?

Ans. She sunk very rapidly from the time the water got over the main deck till it got into the upper cabin, but don't think it was in the upper cabin when I got up to the upper deck. It was there very soon after I had got up. I mean in so speaking the upper cabin, amidships; very soon after I got on the upper deck on the wheel house, I know the water got into the upper cabin amidships, perhaps a minute or two, or possibly three. The engine was on motion very slow when I could see the water on the upper cabin floor abaft the wheel-house. The walking-beam was moving.

Ques. Were you excited or frightened during any of the time, the circumstances of which you have been narrating?

Ans. I claim to know what I was about.

Ques. Do you mean by that to say that you were frightened, but not so much as not to know what you were about?

Ans. I mean to say that I knew then what I was about, and I know now what I was about then, whether I was frightened or not has nothing to do with this question.

Ques. Is the judgment of man when frightened or excited, or his observation as accurate as when he is not in such a condition?

Ans. I am sworn here to state facts, and not to give opinions.

Ques. Do you mean then to retract the opinions you have given in this testimony?

Ans. I have nothing to retract in that testimony.

Ques. by Mr. Gardner ag't for lt.

Suppose the boilers to be on the forward part of the boat and below the main decks—the furnaces within 3 feet of the entire bottom of the boat, ten feet below the main deck, and nine feet from the main deck to the upper cabin floor, making the fires nineteen feet under water, do you think the engine could then be in motion under such supposition?

Ans. I have said that the engine was in motion after the water came on to the upper cabin floor, whether the fires were 19 feet or 19000 under water, I know that the engine moved; whether the engine moved the boat, or the boat moved the engine, I do not know. But I know the engine was moving.

Ques. Will you please to give you opinion, whether the engine could move the boat when her fires were 15 feet under water?

Ans. Under some circumstances they might, and under others they might not. I don't know anything about that; I take it, an accumulated amount of steam before it was blowed off might work the engine whether the fires were under water, or were not.

Ques. Have you not stated to any person at Erie, or on board of the propeller, or in the Township of Kalamayoo, that you were so much excited that you did not know what you were about a portion of the time?

Ans. No, sir, I made no such statement.

(Mr. Spalding for libellants, requests that it may be noted when Mr. Gardner commences his interrogatories, which is done accordingly.)

Ques. by Mr. G. Were you not advised by your neighbors, and by your wife, at Kalamayoo, in the fall and winter after the collision, to travel from home, in order to settle your head from the excitement occasioned by the collison?

(Mr. Spalding advises the witness not to answer this question, and insists that the witness shall not be insulted.)

Ques. by Mr. G. Did you testify at Columbus, on the trial of this suit, that you were no more excited on the occasion of the collision than you were then, while testifying upon the stand?

Ans. Might have done so with propriety, am not certain, don't recollect about it.

Ques. by Mr. G. Did you testify at the same time and place, that you went into the very state-rooms, it being dark, put your hand into the berths to ascertain if the berths were occupied, and found persons there laying in their berths in their state-rooms?

Ans. Very likely I did; I don't recollect; what I then swore to was true.

Ques. by Mr. G. Did you testify in Columbus, that you stood aft

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on the hurricane deck during the time you were on the hurricane deck?

Ans. I very probably stated in Columbus, for such was the fact, that I was a very small portion of the time on the hurricane deck, but was the greater portion of the time on the wheel house until it became submerged.

Ques. by Mr. G. Did the propeller take you from off the wheel-house, or from whence?

Ans. I hauled myself up a rope from the larboard quarter of the steamer's upper deck on to the propeller's upper deck, from pretty near the stern of the steamer.

Ques. by Mr. G. Was the steamboat on that occasion listed over?

Ans. She was not listed to any considerable degree to my recollection from the time of the collision till I left her; she might have been listed a little to the larboard, but not at all to the starboard. I expected to see her listed to the starboard.

Ques. by Mr. G. Were you any more excited on that occasion, than while testifying now?

Ans. I have nothing more to say on the subject of excitement.

Ques. by Mr. G. Did you see men, women, and children drowning on that occasion?

Ans. I saw them in the water, and suppose that they were drowned.

Ques. by Mr. G. Were you excited any when you saw them drown?

Ans. Don't expect any man can see his fellow-beings drown with perfect equanimity.

Ques. by Mr. G. What do you mean by the word "equanimity." Do you mean by that you were excited, or not excited?

Ans. I refer you to Webster's Dictionary.

Ques. by Mr. G. Do you mean to be understood to say that you will not state here under oath whether you were excited or not excited on that occasion?

Ans. I mean to say here, under oath, that when on the wreck of the Atlantic I knew what I was doing, and what was going on around me, so far as I could see and hear, as well as I do now know what is going on in this room.

Ques. by Mr. G. Do you mean by that answer to the last interrogatory to be understood that you was not excited, or do you mean that you will not answer the question whether you were excited or not on that occasion?

Ans. I have no answer.

Ques. by Mr. G. Will you give me the reason why you testify here different from what you did at Columbus?

Ans. I am not aware that I do.

Ques. by Mr. G. Do you mean to be understood that you will not answer the question whether you were excited on that occasion or not?

Ans. I have no answer for it.

Protest to Dep'n.

Mr. Gardner states that the witness so often refuses to answer this question that he now, on behalf of libellants, enters a protest against the whole deposition and closes.

D. S. WALBRIDGE,

Deposition of Samuel Haskell, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at his office, in the City of Detroit, on the 10th day of January, A. D. 1855.

Dep'n of Sam'l Haskell.

Witness saith:—

Ques. Be good enough to state your place of residence, your calling or profession, and say whether you was a passenger on board the steamboat Atlantic at the time of her collision with the propeller Ogdensburgh, in August, 1852; and, if you was, state the circumstances which fell within your observation on that occasion from the time of leaving Buffalo until you reached Erie.

Ans. My residence is Kalamayoo, Michigan. I am a clergyman, pastor of the Baptist Church in that place. I was a passenger on the steamer Atlantic on the time specified. I took passage at Buffalo for Detroit on board said boat on the evening of the 19th August, 1852. Retired to my berth soon after leaving port, occupying state-room No. 10 (I think), on the starboard side, having as a room mate a Mr. Smith, then of the Indian Agency in Detroit, and a third man, an elderly English gentleman, whose name I don't recollect. Slept well until the shock of the collision. It waked me immediately. I sprang from my berth. Very soon after getting to my feet heard a bell, which we interpreted as a signal of distress. Understood it to be the large bell of the steamboat, but cannot swear to that, and I felt the boat list or careen slightly to the larboard. Noticed that the engine continued in motion, and supposing that the injury was not immediately dangerous, deliberately dressed, having been entirely undressed. Mr. Smith and myself took in our hands each a life-preserving stool, and said we would keep together, and went from our state-room through the cabin to the larboard gangway, out upon the afterguards, out on the promenade deck. Saw immediately persons in the water floating astern, others jumping in. Soon after saw a small boat putting off from the larboard bow before the wheel-house. Noticed that we were rapidly sinking. Said to Mr. Smith we had better return to the cabin and secure something more adequate for supporting ourselves in the water. We went to the larboard gangway door at the top of the stairs and undertook to wrench the door between the cabin and the stairway from its hinges, still keeping possession of our stools. Found ourselves unable to get the door off. While trying, the water reached my feet on the promenade deck floor. Said to Mr. Smith, we'd better get upon the hurricane deck.

Took our stools, and from the railing on the guards sprang up on the hurricane deck. Remained on the after hurricane deck until taken off by the propeller. Endeavored to calm the excitement of the passengers. Gave my hand to an unprotected female who sought my assistance, and obtaining her grasp promised assistance. Stood a little on the edge of the crowd, but connected with it, looking forward from the stern. I stood nearer to the starboard than to the larboard most of the time. Took off my coat, intending to take to the water when she sunk. While standing in this condition saw a light at a distance. My impression is that it was bearing nearly over our bow, from the fact that, having pointed it out to Mr. Smith, he remarked that it was a light on the Atlantic, or on her mast, or something to that effect. Such a remark could not have been made had the light been astern of us. Having satisfied ourselves that it was the light of another vessel, we all hailed her as loudly as possible. I supposing it was a vessel on her course ignorant of our situation, not knowing with what we had come in collision, but supposing that if it had been a vessel we had sunk her. We watched the light steadily till we saw her approaching us. She (the vessel) came alongside, and there was a tumultuous rush to get aboard of it, in which some fell into the water. She immediately backed off and lay at some distance from us, I thought for about a half an hour. We then succeeded in calming the tumult on the wreck sufficiently to hear a voice from the propeller saying to us that if we would observe order the vessel would come to us and take us all off, but if there was a rush made he should have to back off again. Quiet was observed on our wreck, the propeller came alongside on the larboard quarter. I assisted the female in getting upon the propeller, her quarter-deck being some distance above us. Then assisted other females, and among the last two or three persons was myself taken on board the propeller. I had distinguished no one as an officer of the Atlantic while on the wreck, subsequent to the collision, and had heard no voice of command. After reaching the propeller we lay for some time near the wreck, and, finally, having made a circuit around the wreck took our course for Erie. I first saw a person pointed out as Capt. Petty, after we had taken our course for Erie. He came out of the cabin, went forward, and leaned over the bows to examine the injury done to the propeller by the collision. Think he had his hands upon his head at times as though suffering pain, and was told by a person, whom I afterwards learned was the acting clerk of the Atlantic by the name of Givan, that the captain was severely injured. Think Mr. Givan stated that Capt. Petty had severely exerted himself in swimming to reach the propeller after the collision. (Conversation with Mr. Givan objected to by libellants' proctor, and taken subject to objection.) Mr. Givan narrated to me and others his experience on the wreck and in getting off. Said he was sleeping in a chair in the clerk's office, when partially aroused by the collision or the tumult, he inquired of some one what was the matter, and was answered that they had had a col-

lision. Not being sufficiently aroused he sunk back to sleep again. He was again awakened by one of the hands coming to him and telling him that they were sinking, and handing him a life-preserver of India-rubber, and that when last awakened the water had nearly reached his seat under his chair. Said he took the preserver and went over the side of the vessel into the water, and sustaining himself there by holding to something connected with the wreck until a small boat came, and, I think he said, took him in. Said he had with him a lad in the water who behaved nobly, and assisted a man nearly exhausted in the water into the small boat before he was taken in himself.

Ques. Did you observe whether the headway motion of the boat had ceased when you first went on to the hurricane deck?

Ans. Do not recollect observing.

Ques. You may describe the character of the night.

Ans. I noticed that the stars were distinctly visible over head, a light mist on the surface of the water, through which I could see persons floating in the water, some rods distant, and saw the small boats laying at a still further distance.

Cross-examination.

Am not aware that I had previously known any of the officers of the Atlantic. Think I paid my fare to the clerk of the boat, though there might have been another man in the office at the time. I paid it at the office. Could not swear that I paid it to Mr. Givan. Don't remember whether my fare was $4 or $5. It was the ordinary fare at the time. Am not certain that I knew a Mr. Noble, who was clerk of the Atlantic at that time. Knew a man of that name. Have often rode on one of the three boats, but think most frequently on the May Flower. Have often had my fare remitted to half price on the north shore line. Have at times had the courtesy of going free, have often paid half fare, and at times paid full fare. Crossed the lake subsequently to, or a month after the collision, on the May Flower. Can't state the room I occupied on that occasion. I remember occupying with my family, on the May Flower, one of the state-rooms in the ladies' cabin. I think the one designated "Hemans," after the poetess. Am not positive of this, however. On the occasion of the collision I was not so excited but that I was entirely deliberate in all that I did. My attention was not attracted to the tumult until I left my state-room and went into the cabin, when a great variety of tumultuous cries met my ear. I was much less excited while dressing than I had anticipated, and less so than I should have been had not the motion of the engine continued unchanged. Remember to have thought that I distinguished the sound of the engine's motion amongst the tumult while in my room. Did not observe whether the passengers who fell into the water when the propeller came up were lost or saved. Cannot say how many fell in. I only remember that there were some fell in. Did not notice

a large number fall in, but cannot tell how many. When I saw men, women, and children jumping off and falling into the water, my actions and words betrayed no excitement that I recollect.

Ques. When you saw men, women, and children jumping into the water and drowning on that occasion, were you not excited in your feelings a good deal?

Ans. My descriptions of my feelings and conduct indicate all I have to say on that subject.

Ques. Were you excited while trying to tear off the companion-way door?

Ans. I have no answer.

Ques. Do you mean to be understood here to say that you will not answer the questions put to you in regard to your excitement on that occasion any different from what you have already answered them?

Ans. My past answers have indicated my feelings as well as I know how to do it, by which I have intended to testify that while my feelings were affected, as they must have been, by the circumstances, they in no way interfered with the deliberateness of my mental and bodily actions.

Ques. Did you hurry faster than usual in putting on your dress?

Ans. I dressed as quickly as I could. Am not conscious of trying my utmost, but I dressed rapidly.

Ques. Did you go immediately out on to the guards after you had dressed and came out into the cabin?

Ans. As soon as Mr. Smith and I were ready, stood on the after-guards a few minutes before going in to try and wrench off the door. A very few minutes. My judgment is we stood there more than a minute, and less than fifteen minutes; because I have no distinct recollection on the subject of time more than that it was a short time.

Ques. Did this bell continue to ring from the time you heard it?

Ans. I think it soon ceased.

Ques. Was the engine of the boat running while you were trying to wrench off the door, and while the water was about your feet in the upper cabin?

Ans. I do not remember to have noticed.

Ques. Did you notice whether the boat was progressing ahead, at, or after that time, from any object you saw in the water?

Ans. Do not remember to have noticed.

Ques. Were you or were you not very much excited, or some excited on that occasion?

Ans. I have no further answer on that subject.

Protest to Dep'n.

Mr. Gardner, for libellants, states that the witness, so often refusing to answer questions put to him, he enters protest to the whole deposition and closes.

SAMUEL HASKELL.

Deposition of Richard M. Smith, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at his office in the City of Detroit, on the 10th day of January, A. D. 1855. Witnessth saith—

Dep'n of R. M. Smith.

Ques. Where do you reside at this time, and in what office are you employed?

Ans. My family reside in Penn Yan, New York. I am engaged as clerk in the office of the Michigan Indian agency, and reside in Detroit.

Ques. State if you was a passenger on the steamer Atlantic at the time of her collision with the propeller Ogdensburgh in August, 1852.

Ans. I was.

Ques. What state room did you occupy, and who were your room mates on board the Atlantic?

Ans. My impression was that it was No. 10, in gents. cabin, pretty well forward; am not clear as to the number, but think it was 10. The Rev'd Mr. Haskell was one of my room mates, the other was an elderly gentleman, whose name I did not learn.

Ques. State whether you was taken from the wreck by the propeller Ogdensburgh and brought to Erie?

Ans. I was.

Ques. After getting upon the propeller, did you see Mr. Blodgett, the mate of the Atlantic, and hear him attempt to explain how the collision took place? Please to relate what he said on that subject.

(Objected to by Mr. Gardner, agent for libellants, and answer taken subject to his objection.)

Ans. I saw Mr. Blodgett on the propeller (witness here personally identifies Mr. Blodgett), and had a conversation with him in regard to the collision; and he stated in that conversation that the 2d mate had charge of the vessel at the time of the collision, and that if he himself had had charge of the vessel the collision would not have occurred. In that connection he spoke of the 2d mate as being incompetent, and I think he used some words that reflected upon him; am not able to give the precise words he used, but they were equivalent to his failing to do his duty as a competent officer should have done.

Ques. State whether Mr. Blodgett, in this connection, used any rough words or profane language? If so, what was it?

(Objected to by Mr. Gardener for libellants as leading, and taken subject to objection.)

Ans. I'll not be positive. My impression is now he said "Damn him; if he had done his duty as he ought to have done the collision would not have occurred."

Cross-examination.

Ques. by Mr. Gardner, agent for libellants. Did you undress when you went to bed?

Ans. I did.

Ques. Did you dress yourself before you came out of your room?

Ans. I did not.

Ques. What was the first thing you did when you got up?

Ans. I went out into the cabin with my drawers on, and possibly I had my pants on, but I think not.

Ques. What was the appearance of the inmates of the cabin when you went out?

Ans. My recollection is that I saw no one in the cabin, that I was the first one in it. I received the impression at the time I left my room that some of the machinery had given way, and I went out to ascertain that fact. I ascertained the fact that the machinery was working by the walking beam, and went back to my room again. In order to see whether it was going I went out of the door by the stairs on to the promenade deck, saw it agoing, and then went immediately back.

Ques. Where did Mr. Haskell go during this time?

Ans. I found him in my room when I returned.

Ques. What was he doing when you returned?

Ans. I think he was dressing, or preparing to leave the room. Thinks I told him there was some calamity upon us, and we agreed to keep together.

Ques. Where did you go after you were dressed, and what did you do?

Ans. We took our stools as we left the room, and passed down the boat to go outside, and, as we approached the door, and before passing out, I heard some one remark the boat was sinking. We concluded that we would try and take off one of the large doors, the cabin door. We both took hold of the door and jerked and kicked it, found we were not able to take it off. While at work at the door I got my feet wet. I passed partly down the stairs once or twice while at work at the door to see what was going on on the main deck. My better impression is that the water did come up on the cabin deck while at work at the door. The door was the larboard door of the stairway. Am not able to state, from present recollection, whether Mr. Haskell and I went anywhere else before going to work at the door.

Ques. Was it rather a hurrying time with you about that time?

Ans. I think it was. I was under a high degree of excitement at that time. I dressed as quick as I could when I went back to my state room.

Ques. Did Mr. Haskell seem to be in a hurry to get on his clothes and get out with you?

Ans. We were both pretty expeditious about it, thinking we had no time to lose.

Ques. Did Mr. Haskell seem to be somewhat excited?

Ans. Yes, sir.

(Mr. Spalding here objects, on behalf of respondents, to further questions and answers, unless they are kept within the scope of a cross-examination.)

Ques. Was he a good deal excited on the occasion?

Ans. From his appearance I should say that he appeared to possess himself. Should think he was not as excited as I myself was.

Question. Where did you go after trying to take the door off?

Ans. We took our stools, went out on the guards, and went immediately up on to the hurricane deck, as quick as we could; don't recollect having conversation on the way.

Ques. Did you notice after first seeing the walking-beam whether the engine was running at any time after that?

Ans. I am not able to answer that question, having no recollection of it.

Ques. Do you know Mr. Walbridge? Did you see him that night?

Ans. I do, and I did see him.

Ques. Where did you first see him?

Ans. I cannot say whether I saw him when I got on the propeller, or not.

Ques. Did Mr. Walbridge seem to be somewhat excited on the occasion?

Ans. After we had got off on the propeller, the excitement had somewhat calmed down. He did not seem specially excited.

Ques. While at work on the door, or before that, did you notice whether the boat was careened over, or not?

Ans. My impression is that it was careened over. Think it was careened to the side on which the collision had took place.

Ques. How long do you think the boat laid over?

Ans. It might have been 1, 10, or 15 minutes. I was in such a state of excitement as not to be competent of judging of time.

Ques. Did you work at that door any length of time?

Ans. Yes, two or three minutes, or perhaps five; cannot pronounce accurately as to time, as it was a very hurrying and exciting time with us. Had seen, I think, the officers of the Atlantic before, but had no personal acquaintance with any of them.

Ques. Have you, since the collision, had any conversation with any one about the collision? and if so, with whom?

Ans. With Mr. Haskell, Mr. Walbridge, Mr. Blodgett, Mr. Crippen, of Coldwater, my wife, Mrs. Smith, my children, with Mr. R. P. Spalding, Mr. Sprague, the Indian agent, and with a good many others; John Owens, I think, Nathaniel Draper, of Rochester, Darius A. Ogden, the present Minister to Honolulu; with Mr. Keat-

ing, with Mr. George Kirby, I think a Mrs. Harris, of this city, and, I think, the Rev'd Mr. Fitch, with the Clerk, Mr. Givan.

Ques. Did you tell Mr. Crippen, in your conversation, the circumstances of the collision generally, as you have stated them here?

Ans. I think I did, at the time. I think I gave him a good deal more of the circumstances than I have stated here. Presumes I gave a general history of the transaction to Mr. Sprague. Not so full to John Owen. Cannot say what kind of a statement I gave Mr. Nath'l Draper. Have spoken to Mr. Kirby two or three times. Don't think I gave Mrs. Harris much of a description. Had some conversation with Mr. Givan about it, aboard the propeller, and subsequently, when I went down to Ward's office about my baggage, made more allusions to it.

Ques. With how many of the various individuals you have named have you stated the conversation between yourself and Mr. Blodgett on the propeller as stated here?

Ans. I am not able to name with certainty any particular individual, but I presume I did.

Ques. Would you be very likely to name that as one of the incidents, if you did talk with anybody?

Ans. I should think I did, as it made a pretty deep impression on my mind.

Ques. Where did you first see Mr. Blodgett after the blow was struck?

Ans. I think I saw him for the first time on the propeller.

Ques. Where did he stand, and what was he doing?

Ans. I think I saw him in the cabin of the propeller, then on the outside, and then on the pilot-house, with the captain of the Ogdensburgh, on the way to Erie.

Ques. How long had you been on the propeller, when you had this conversation with Mr. Blodgett?

Ans. I could not say.

Ques. About how far had you proceeded from the Atlantic?

Ans. I could not say, it was some time on the passage.

Ques. Where did Blodgett and you stand on the propeller, when you had your conversation?

Ans. I saw him several times while going to Erie. My impression is that during this conversation we were on the right hand side of the propeller, outside the guards. I think I approached him on the subject, and made inquiries. Whether any one else was present or not, I cannot say. I cannot give the precise language of what I first said to him. I was informed that the propeller was the cause of the collision, and think I approached him with an inquiry to that effect.

Ques. Do you pretend here, under oath, to give any of the precise language had on that occasion?

Ans. I do, sir.

Ques. Now give his precise words, and nothing but the precise words, he used to you; only what you know he said.

Ans. My knowledge is based on my impressions. I am confident he remarked to me that if he had had charge of the vessel, or had had the command, the collision would not have occurred. Am certain that he, in that connection, said, "Damn him, if he had done his duty as an officer of the vessel the collision would not have occurred," or words tantamount to that effect.

Ques. Do you remember for certain anything else he said on that occasion?

Ans. It does not now occur to me that I do. Cannot speak with positive certainty whether he named any person or not. Am quite certain he said the second mate had charge of the boat; cannot say whether he named the second mate. I learned his name, either from him or from some one else on the propeller. Cannot say whether I learned the name of the second mate before this conversation or after.

Ques. Do you recollect now the name of the second mate?

Ans. I think I was told his name was Carney; cannot call to mind who told me his name; cannot recollect whether any one was standing near by me at the time of the collision; there might have been, and there might not have been.

Ques. Did you inquire of Mr. Keating in this room, "If that was Mr. Blodgett," on the day of this examination?

Ans. I think my remark was, "Is not that Mr. Blodgett," or words to that effect; might have known Mr. Blodgett had I met him casually in the street, and might not.

Ques. Did Mr. Blodgett say on that occasion, "Damn him, if he had done his duty as an officer ought to have done, the collision would not have happened?"

Ans. Yes, sir; my impression is that he made that remark, or words tantamount to that; my impression is that he used the word "damn," and applied it to the second mate.

Ques. Did he add anything to that conversation at that time that you remember?

Ans. I presume that other remarks passed between us, but whether on that subject or not, I am not able to say.

Ques. Do you know now, and are you willing to state for a certainty under oath, whether it was the mate of the Atlantic or of the Ogdensburgh, that Mr. Blodgett meant in his conversation?

Ans. My impression is that he meant the second mate of the Atlantic.

Ques. Is it your impression that Mr. Blodgett meant the second mate of the Atlantic, or do you know it for certain that he did not mean the mate of the Ogdensburgh?

Ans. My impression is that he meant the mate of the Atlantic.

Ques. Were you more excited at this time than you are now?

Ans. Of course, I was a little excited, as it had not entirely worn

off; I was not free from apprehensions of danger; I was somewhat excited, but had self-possession, knew what I was about, and was keenly alive to the circumstances with which I was surrounded. First became acquainted with Mr. Keating yesterday afternoon; Mr. Walbridge came with him to me; had but a very few words with him either yesterday or to day; mentioned some of the circumstances of the affair, not particularly to him, but to Judge Spalding and Mr. Walbridge. Did not tell them what I would swear to; gave them, in answer to questions they put to me, some little account of the transaction, not over ten minutes. Told them in that conversation what Mr. Blodgett said on the propeller. Cannot name any person I have stated the conversation with Mr. Blodgett to, from the time of the collision until now.

Ques. Did you hear Mr. Blodgett on that occasion find any fault with the propeller, or with any person on her?

Ans. From my present recollection I am not able to recollect that he did, still he might have. It is a good while ago, and circumstances are not so vivid as they were at the time.

Ques. Do you recollect of hearing any other person or persons on the propeller on that occasion finding any fault with the propeller or any person on it?

(Objected to by Mr. Spalding as incompetent.)

Ans. Oh, yes. I presume the collision was a general subject of conversation with all of us, and some censured the Atlantic, some the propeller. I saw a person fall by the pilot house of the propeller after we had got on board, and I was told it was Capt. Petty, and that he had fainted. Thinks it was the understanding aboard the propeller that Petty was considerably injured.

RICH'D M. SMITH.

Deposition of George E. Willoughby, taken before William D. Wilkins, United States Commissioner for the District of Michigan, at his office in the City of Detroit, on the 10th day of January, A. D. 1855.

Witness saith: I reside in Detroit; am by occupation a sailor; master of a steamboat; am the same Captain George E. Willoughby who gave testimony at Columbus on the trial of this cause in the District Court, and who also gave a deposition at the instance of the libellants some time heretofore.

Ques. At the time of the loss of the Atlantic, what other steamboats was running in the same line with her, between this point and Buffalo, and who commanded that other boat during that season?

Ans. The May Flower and the Ocean were running in that time. I commanded the May Flower and Capt. McBride the Ocean. I have commanded a boat in that line from that time to the present. I commanded the Plymouth Rock during the last season.

Ques. After the Atlantic was in, running from Detroit to Buffalo, and from Buffalo to Detroit, did you notice the buoys attached to

the sunken Atlantic, which denoted her *her* position? If so, please to state how they were situated in regard to the ordinary track of steamers running on that route, and whether you passed them at times on the one side, and at times on the other.

Ans. I cannot positively say I ever saw the buoys, as we almost invariably passed at night, but I saw the vessels said to be moored over her, and at work at her. They were in the usual track of steamers bound to Detroit or Buffalo. We sometimes passed inside and sometimes outside.

Ques. On the night of the collision, was you out on the lake or in port?

Ans. We were laying in the port of Buffalo, having reached there a few days previous; we were in the dry dock.

Ques. From the character of the night, as represented by the officers of the Atlantic, will you state whether, in your judgment, it was necessary to keep a good look-out on board of such a steamer as the Atlantic, in passing Long Point light.

(Objected to by Mr. Gardner as representations from others.)

Ans. Yes, sir; I should think it was.

Ques. If you had been in command of the Atlantic, running from Buffalo to Detroit, with a mist upon the water of some 15 or 20 feet from the surface, when off Long Point light, would you have deemed the inside of the pilot house as suitable a place for a look-out as the outside, in front.

Ans. I almost think I should, as the outside in front, on the promenade deck, forward of the pilot house, is 8 feet lower than the pilot house.

Ques. Will you please to state the most suitable point, in your judgment, for a look-out on such a night as that, and in such a place?

Ans. I should think the top of the pilot house the highest point.

Ques. Please to state what facilities for observation and action a man would have when on top of the pilot house.

Ans. He would be able to see further from that spot, and have full control of the engine and of the man at the wheel.

Ques. Is the vicinity of Long Point light a place much frequented by steamers and other vessels during the season of navigation, or otherwise?

Ans. It is as much so as most other places on Lake Erie.

Cross-examined.

Ques. Is there any current setting round the point near where the Atlantic was wrecked on the Lake?

Ans. I should think there is a perceptible current.

Ques. Suppose a steamboat to be struck and still afloat upon the water, how far in your opinion could such a boat float in the *the* water on a still night per hour?

Ans. I can scarcely answer that question, because I don't know

the set of the water round that point. It may be a quarter of a mile either way. Had the wind been blowing from the westward strong, and had died away, I should think the current would set up the lake, but if the wind had been from the eastward it would set down, on the wind's dying away, faster than it would set up.

Ques. Supposing the wind had been blowing the day previous a good breeze from the eastward, what would have been in your opinion the current the day following, with a 2 knot breeze down the lake, and how fast would the steamer float with such breeze down the lake per hour?

Ans. Should think she may drift about a mile an hour in such a position, if she didn't touch the bottom.

Ques. Suppose there had been no wind for a number of days previous, would there be any current setting around that point down the lake.

Ans. I scarcely know whether there would or not. In calm weather, I should think there was a slight current setting down.

Ques. Suppose a steamboat to be afloat four or five miles above Long Point, when the current is setting down the lake, would it carry the steamer further from the shore as she went down or nearer.

Ans. I should think not; the current, I think, sets parallel with the shore; as it gets below the point, the current sets to the northward.

Ques. Suppose a boat when abreast of the light-house, to be two miles from it, how far, keeping on her course for Point au Pelee, would she be from the shore, when she was 5 miles from the light-house?

Ans. I should think probably 5 to six miles off.

Ques. Suppose she puts her wheel hard aport and runs towards the shore, when from 5 to 7 miles above, until to when she gets within a mile and a half or two miles of the shore, then stops and floats down the current within about a mile above the light-house, how far then would she be from the shore?

Ans. I should judge at the same distance off as when she stopped.

Ques. If you were in command of a steamer on a still night, going from Buffalo to Detroit, and you should make a white light a half or ¾ths of a point over your larboard bow, what would you do?

Ans. I should port the helm a little.

Ques. If you were in command of a steamer in a still night, running from 12 to 14 miles an hour, and if, from the absence of signal lights or from any other cause a propeller should approach you within four or six lengths, and from one to three points off your larboard bow, before you discovered she was not a sail vessel, and if she was running from 3 to 7 miles an hour and heading across your bows, so that if you stopped your engine a collision was apparently inevitable, what would you do?

(Mr. Spalding, of counsel for the claimants, hereupon opposes an objection to all questions and answers that do not come within the

scope of a cross-examination, answer therefore taken subject to such objection.)

Ans. I should put the helm hard aport as quickly as possible.

Ques. If you were in command of a steamboat with 500 passengers on board, and after a severe collision with your boat, cut clear in to or near the main hatch, and you were satisfied your vessel must sink, and you were only from one to three miles from shoal water, what would you do, stop in deep water or head your boat to the shore?

Ans. I believe I should endeavor to reach the shore.

Ques. Would you consider it bad seamanship for the officer of the deck of a steamboat like the Atlantic, from time to time during his watch, to step into the pilot-house, examine his compass, and for a few minutes to look out ahead from the windows of the pilot-house, and is it customary to do so?

Ans. I should not consider it bad seamanship, and it is a part of the officer's duty to do so.

Ques. During the year 1852 was it customary on the lakes for the steamboats to carry any additional lookout other than the officer of the deck, the wheelsman, and the man called and used as "the watchman?"

Ans. It was not customary.

Ques. In a night when you can see a light from 2 to 4 miles off, would it be bad seamanship to leave the deck in charge of the 2d mate, and is it usual and customary to do so?

Ans. It is the custom.

Ques. Are there any circumstances in which, when you make the red light of an approaching steamer, that you would not show your red light in passing?

Ans. I cannot see any circumstances that would prevent my doing so.

Ques. If you were in command of a propeller on your way from the south shore to the Welland Canal, and you should make the red light of a steamer from 2 to 2¼ points over your starboard bow, what would you do? Would you attempt to cross her bows, or would you port your helm, show your red light, and go ahead with confidence?

Ans. I should port my helm.

Ques. If you were in command of a propeller on a still night, and should make a light 2½ points over your starboard bow, supposed to be two or three miles off, and such light does not, on observation, close in on you, would it be good seamanship, or in any way necessary, to slow your engine, or is such practice usual or not?

Ans. I should, under such circumstances, port my helm. I would not consider it necessary to stop.

Ques. Do sail vessels frequently show two white lights in the rigging?

Ans. I cannot say. I never observed them with two lights, except when they were at anchor in the rigging.

Ques. Suppose yourself in command of a large class passenger steamer like the Atlantic, she well lighted and manned, the night such that a light may be seen from 1½ to 3 miles distant, you make the light of what you suppose to be a sail vessel, one or ¾ of a point on your larboard bow, and on porting you readily open the light a point or ¾ths of a point more, where the light continues to bear, would good seamanship require you to slow your engine, and is it ever done, to pass a vessel in such circumstances?

Ans. On a still night I should not think it necessary. It would depend a great deal on the distance off of the vessel.

Ques. In such circumstances, when you show your red light, do you rely with confidence on the approaching craft keeping her course or porting her helm and going to the right?

Ans. Usually I'd depend on the other craft to port and go ahead.

Ques. Is it the special duty of the officer of the deck, whether it be the master, 1st or 2d mate, to look for vessels and direct the navigation of the steamer, and is such officer, when competent, which, according to the usages of the western lakes, are kept on good first class steamers, and when such vessels are like the Atlantic, provided with a separate watchman, is there any liability on the part of the officer of the deck to be called to look to other parts of the vessel, and, if any extraordinary emergency should occur to call him away, would he not call some other officer of the deck?

Ans. It is the duty of such officer to look for vessels and direct the navigation of the steamer. The officer of the deck is liable to be called away to other parts of the vessel, but, if so, he would hardly leave without calling some other officer of the deck.

Ques. If the 2d mate is a competent seaman, is it in accordance with the usages and customs of navigation to leave him, when the weather is calm, the night such that a light may be seen from one and a half to three miles off, to intrust the deck to him, and is this not far more customary than for the captain, in good weather, to stand watch in the night?

Ans. I think it is the custom, where you have a man in whom you have confidence, to intrust him with the deck.

Ques. How far should colored signal lights be seen by an approaching vessel in an ordinary night?

Ans. A first class signal light, such as used by the largest class steamers in the year 1852, could be seen at a distance of from 5 to 6 miles off. Ordinary lights used on propellers, if burning well, could, on an ordinary night, be seen five miles off.

Ques. If colored signal lights are not burning so as to be seen one or two miles off, in an ordinary night, would you consider them proper lights for a propeller or steamer?

Ans. Scarcely. I should not.

Ques. Are you acquainted with the Atlantic's pilot house?

Ans. Yes, sir. I once commanded her.

Ques. State whether a pilot standing in her pilot house has an un-

obstructed view to the right, left, and forward, when the windows are open?

Ans. He has.

Ques. State whether if the officer of the deck while in the pilot house, could work the engine bells, and take his courses just as well as on top?

Ans. I should say not as well as on top. He could stop the boat just as well in the pilot house as on top, but I do not think he could work the engine as readily. The bell was put in the pilot house intending to be used on an emergency, to stop the engine suddenly, and by an understanding with the engineer, it could be used for that purpose as well as the bell which rung from the top; courses could be given there as well as on top; you could see the course you steered there better than when on top, as the compass could be seen there better than on the outside.

Ques. Suppose you should make two dim white lights in an ordinary still night, and should see no colored signal lights, what kind of a craft would you take it to be, when about a mile off?

Ans. If I should see no colored lights, I should imagine it was a sail vessel.

Ques. Were you acquainted with the officers of the steamer Atlantic in 1852, at the time of the collision?

Ans. I was.

Ques. What was their general reputation at that time as seamen?

Ans. I never knew anything of the 2d mate. The captain and mate were good. The officers' general reputation, captain, mate, and 2d mate, was good.

GEO. E. WILLOUGHBY.

Deposition of Milo Smith, taken before J. W. Chickering, United States Commissioner for the District of Illinois, at his office in the city of Chicago, on the 7th day of October, A. D. 1854.

Dep'n of Milo Smith.

Witness saith. I am an engineer by profession. Am at present Chief Engineer of the Fox River Valley Railroad in Illinois. I recollect when the collision occurred between the steamer Atlantic and propeller Ogdensburgh, which was on Lake Erie on the 20th day of August, in the year 1852. I was not at the time on either vessel, but my wife and family were then on board the Atlantic, and were at the time lost. As soon as I heard of the above facts, I started on the next Monday morning, the 24th day of August, in the year 1852, for Buffalo. I got to near the wreck on Long Point the next Wednesday. I there found Mr. Blodgett, the first mate, and Mr. Carney, the second mate of the Atlantic, and joined them in search of the wreck, in doing which we were employed (with the exception of Friday) until the next Sunday evening. On Friday, the wind blew too hard to do anything. On this Friday I had a long conver-

sation with Blodgett, the mate of the Atlantic, during which he said the Atlantic was a new vessel, and one of the best on the lakes, and was the easiest vessel to manage he ever saw; that he could run her within ten feet of another vessel under a full head of steam without any danger of collision. I then asked him, "If such was the case, how the collision happened?" He replied, that "it was the result of damned carelessness, and if he had been on deck at the time, it would not have happened," and that "it could have been avoided as well as not." I then said, "Why did not Carney prevent it then?" His reply was, "I suppose he was frightened, and dare not do anything for fear of doing it wrong." I then asked him, "Why did not Carney ring the bell to stop the boat?" He said, "Carney was afraid if he stopped the boat and a collision happened they would blame him for it, and so he did nothing and let her run." During this conversation Blodgett did not allude to the Ogdensburgh or her officers, and gave me to understand that Carney, the second mate of the Atlantic, could have prevented the collision if he had attended to his business. I do not now recollect Mr. Blodgett's first name, but the conversation was with the person who had been first mate of the steamer Atlantic.

(The plaintiff objects to all those facts of the foregoing testimony that details the statements of other persons, and the testimony was taken subsequent to and subject to that objection.)

On cross-examination witness says: That he does not know of his own knowledge how the Atlantic was managed at and about the time of the collision.

In my conversation with Blodgett, which occupied two hours, he said he did not know anything himself of the circumstances of the collision, but his impression was that Carney having before been much fatigued he had got asleep, and on awaking suddenly he was much frightened, and did not know what to do. This was what I meant when I said that Blodgett gave me to understand that Carney could have prevented the collision if he had attended to his business as above testified.

Direct examination resumed.

The statements to me by Blodgett, as related in my cross-examination, together with similar statements in the two hours' conversation with him, a part of which I have given above in my first examination, conveyed to my mind the understanding that Blodgett gave me.

MILO SMITH.

Deposition of Charles C. Reead, taken before Richard C. Parsons, United States Commissioner for the District of Ohio, at his office in the city of Cleveland, on the 18th day of March, A. D. 1854.

Dep'n of Chas. C. Reead.

Witness saith: That during the month of August, 1852, he was master of the schooner Oneida. She was owned by C. C. Buth, of Cleveland. On the night preceding the collision of the Atlantic and Ogdensburgh, I was master of said schooner, and was on my way from Tonawada to Conneoght in ballast. It was my first watch on deck, from 8 to 12 o'clock, and I went below about one o'clock and lay down. I should think about a half an hour after I laid down, the mate, Mr. Coaffee, called and said, "There is a steamboat right into us," or something to that effect. I jumped on deck, and I saw the steamboat was close on to us, heading right on to us. I sung out to the man at our wheel to put his helm "hard up," and I let go the main sheet. The vessel swung round a little. The steamboat was so close to us that when she run across our bow our jib-boom caught just aft her wheel-house and was carried away. Just about the time she struck, a man on the steamer called out, "Look out for your vessel." That is all that was said. I went to work and fixed up the jib-boom, and went on to Conneaght. I did not see the name of the steamer. My men at the time said it was the Atlantic.

Cross-examined by Mr. Newberry.

1. From the time the order was given to put the helm hard up, how far round had the vessel swung?

Ans. Perhaps half a point. She struck us nearly at right angles. I did not see the Atlantic until she was close on to us. She could not have been more than once or twice her length off when I came on deck. I told the circumstance to Capt. Dowlin first, of Ohio City. He is now building a vessel at Euclid. It must have been between one and two o'clock at night the collision occurred. The night was light but little smoky. Captain Keating requested me to come here and give my deposition.

(The whole testimony of this witness is objected to by libellants' counsel as irrelevant.)

CHARLES C. REEAD.

Deposition of William A. Coaffee, taken before Richard C. Parsons, United States Commissioner for the District of Ohio, at his office, in the City of Cleveland, on the 18th day of March, A. D. 1854.

Dep'n of Wm. A. Coaffee.

Witness saith: That he is a mariner upon the lakes, and is of the age of twenty-four years. That during a part of the season of 1852, he was mate of the schooner Oneida, and on the night of the 18th of August, when coming up the lake, met the steamer Atlantic on her

way down. The schooner was on the wind with her larboard tacks aboard heading about west. We made the light of the Atlantic on our larboard bow two points. When within a short mile of us the steamboat presented her larboard side light, and appeared to be passing astern of us; but all at once I discovered that she showed a single light, which satisfied me that she was heading on to us. I had the helm of the schooner put hard up, and by this time the captain came on deck and let go the main sheet. The steamboat came on and crossed our bows so close that she caught our jib-boom just abaft her starboard wheelhouse and carried it away. A man from the steamer's deck cried out, "Take care of your old vessel," and on she went. After we got into Cleveland we got the news that the Atlantic was sunk. We were a little distance below Long Point when we met the Atlantic. I saw her name and read it on her side as she passed us. The wind was about S. W. at the time. I have, since that, seen James Carney, the second mate of the Atlantic, several times, and have conversed with him on this subject. He admitted to me he had the deck at the time the steamer crossed our bows, but said he did not see how they could have carried away our jib-boom. It was in the neighborhood of two o'clock in the morning of the nineteenth that we thus met the Atlantic. We were well on towards the Canada shore between Long Point and Grand River.

WILLIAM A. COAFFEE.

Questions by R. P. Spalding, Esq., Proctor for Respondents.

Did the schooner carry a light at the time you met the Atlantic? and if so, where did she carry it?

Ans. She did carry a light, and it was made fast to the jib-boom.

Objections to testimony.

(The libellants object to the testimony of the witness in chief, William A. Coaffee: 1st. That it was taken long previous to the present time, March 15th, ex-parte; 2d. That it is irregularly taken; and 3d. That it is irrelevant.)

I, R. C. Parsons, Commissioner, do hereby certify that the deposition of William A. Coaffee, the above witness, was by me first taken in October, 1853, and ex-parte, that on the 18th day of March, 1854, he again presented himself at my office as a witness in the same case, and by request of def'ts' att'y I read to him the examination in chief, whereupon he declared that it was his testimony, that it was true, and that he was still satisfied therewith. Thereupon the cross-ex. by att'y for libellants commenced after first making their objections as above noted.

R. C. PARSONS,
U. S. Com'r.

March 18, '54.

Cross-examined by Mr. Newberry, Att'y for Libellants.

No. 1. Between what ports was your vessel bound at this time?

Ans. I believe we were bound from Tonawanda to Cleveland. We were with ballast. Ballast was taken on at Cleveland.

No. 2. When did you leave Tonawanda?

Ans. I cannot state the day, or the day of the month. It was in August.

No. 3. What time of day did you leave Tonawanda?

Ans. In the morning, in the forenoon.

No. 4. Who was the owner of the vessel?

Ans. I believe Mr. Buth, of Cleveland.

No. 5. Who was the captain?

Ans. Capt. C. C. Reed.

No. 6. Who was the mate?

Ans. Myself.

No. 7. Where is your residence?

Ans. Cleveland.

No. 8. Who were the crew?

Ans. Tom and Clinton Reed, a brother of the captain, James Williams, who, I think, resides at Fort Wayne, Indiana; there was one other they called John.

No. 9. Do you know where any of those men are now?

Ans. I do not know where any of them are except the brother of the captain and Captain Reed, who is now present.

No. 10. Where have you been this winter?

Ans. On board the steamboat Northerner in the employ of Mr. Turner and Captain Sweet, at the dock, as ship-keeper.

No. 11. After your jib-boom was carried away that night where did you go?

Ans. We came on to Cleveland, and stopped on our way at Conneaght.

No. 12. Did you take on a load when you arrived at Cleveland?

Ans. I think we did not.

No. 13. Whose dock did you land at?

Ans. I do not know.

No. 14. Where was she repaired.

Ans. In the old river bed, in Mr. Culkin's yard at Ohio City. A spar maker who lived at that time in Cleveland, put in a new jib-boom. His name as near as I recollect was Thomas Burn.

No. 15. Who asked you to come up here and give this testimony this afternoon?

Ans. Captain Keating and Mr. Chamberlain.

No. 16. In whose employ are you at present?

Ans. I am not in any one's employ at present; my family are here. I am engaged as mate for the present season on a little vessel at Fairport called the Spartan.

No. 17. State as near as you can where the collision you refer to occurred?

Ans. Between Grand River in Canada, and Long Point.

No. 18. What time of night was this?

Ans. I should think about one or two o'clock in the morning; cannot recollect the day of the week.

No. 19. How far were you from Grand River?

Ans. About, I should suppose, ten miles; could not see Grand River light-house. Did not see any light-house for ten or fifteen minutes before or afterwards, was at work and did not notice any. I had charge of the deck from twelve o'clock till the time of the collision; saw no light-house before the collision that night that I recollect. Don't recollect seeing any light-house that night after the collision. Don't recollect the time we passed Port Abino; so long ago I don't recollect distinctly. Don't remember how the wind was when we left Tonawanda. It was about forty miles from Port Abino to the place of the collision or accident. The wind at the time was about S. W. There was about a 3 or 4 knot breeze; am sure the wind was S. W. We had all sail up save stay-sail. She was a fore and aft schooner. The captain came on deck just before the collision. I called him; I called all hands. I first saw the light of Atlantic a point and a half or two points on our larboard bow; saw her side lights, cabin lights; cannot tell how far off she was; I should think she was two or three miles off; did not see her signal light at that time; saw a white light. We were heading west; we had our light made fast to the jibboom, hanging under the jibboom about a foot from the bowsprit. I was standing by the windlass; I told the man to keep his course. When I saw the lights I went to the man at the wheel and told him to keep her on her course. The next order I gave when I saw her coming into us, was to tell the man to call all hands in the forecastle, and I went aft to call the captain; the captain was on deck before she struck us. When the steamer altered her course, I sung out to the man at the wheel to put the helm "hard up," and the captain let go the main sheet, the vessel paired off to the starboard. I believe I did give the order "hard up" before I called the captain; we were on our larboard tack close hauled.

I knew the steamer changed her course, for I took the bearing of her light. It might have been from one to five minutes I noticed her before she changed her course. It might have been one or two minutes after she changed her course till she struck us; cannot tell whether it might not have been five minutes or ten minutes, am sure it was not fifteen minutes. When the Atlantic changed her course, she was probably a mile off. Think she was off about a half a mile when I gave the order to "hard up." Cannot say just how far. Might have been more and might have been less. It was about ten minutes from the time I first saw the Atlantic's light until I went aft to tell the wheelsman to keep her on her course. During that time, I

think the light did not open or close. I did not see any other vessel at the time but the Atlantic. We had no other signal light on board burning but the white light. I first told the circumstances of this affair to Captain Keating, at Cleveland; he asked me about it. It may have been a week before the trial of this cause at Columbus that I told him. Captain Keating took me up to see Mr. Chamberlain, and then I was subpœned.

WILLIAM A. COAFFEE.

Deposition of John Shook, taken before Richard C. Parson, United States Commissioner for the District of Ohio, at his office in the City of Cleveland, on the 18th day of March, A. D. 1854.

Dep'n of John Shook.

Witness saith: That he resides at Huron, Erie County, Ohio, is forty-seven years old, and is by occupation and profession a sailor. Has been engaged upon the western lakes since 1823 in the capacity of hand, mate, and master. Has been engaged twelve or thirteen years on sail vessels, and since 1836, has been engaged wholly upon steam vessels, both propellers and steamboats, though most of his time since 1836 has been spent upon strawboats.

Question by Mr. Spalding, Proctor for Respondents.

No. 1. Upon the hypothesis that the propeller Ogdensburgh, on the nights of the 19th and 20th of August, 1852, while laying her course N. E. by E., for Gravelly Bay, made the light of the steamboat Atlantic two or two and one half points off the starboard bow of said propeller, distant, as judged, three miles, what conduct would good seamanship require at the hands of the officer of the deck, the steamer being supposed to be bound for Detroit?

Ans. I should have kept my course. I should have watched the lights of the steamboat carefully, and if I saw that the steamboat was trying to pass us on the other side, or that we were getting nearer together than two or two and one-half points, I should have altered my course so as to have passed on the other side of her, or should have stopped the boat, one of these two courses. I should not have altered my course, unless she closed in within a point or less; I should then have altered my course.

No. 2. Suppose, after the lapse of three or four minutes, you first discovered the steamboat's red signal light within, perhaps, a half mile distance, what would you then do, if you had the command of the propeller?

Ans. If I saw the steamboat's light within a half a mile of me, she showing her red light, I should put my helm to port, till we opened her red light on our larboard bow.

No. 3. Suppose, at this time, when you made the steamer's red signal light, your propeller had been slowed, so as to have lost the most of her headway, and you found the steamer coming head on to you, what then would you do?

Ans. If I saw her coming right towards me, she showing her red light, I should put my helm aport.

No. 4. Suppose that the steamer at this time is off (2½) two and one-half points on your starboard bow, what then would you do?

Ans. I should have laid still and let the steamer pass by.

No. 5. Suppose yourself in command of the steamboat Atlantic, running on the night in question fifteen miles an hour, and a light is made half a point over your larboard bow, belonging to a vessel whose course is unknown, the night thick and hazy, what course should be adopted in regard to the management of the steamer?

Ans. That would be owing somewhat to the distance she was off. In case I was within a half or three-quarters of a mile of the light, and the course of the light unknown, I should put my wheel to port, and let her swing half a point before I steadied her. If I found the vessels coming together, if she was on my larboard bow I should still keep my helm aport to try and pass, but if I found the vessels coming together, I should stop the engine, and if necessary, back her to avoid it.

No. 6. State whether you would consider it consistent with the prudent management of a vessel like the steamboat Atlantic to leave her, when off Long Point, in a hazy night, in charge of the second mate and helmsman alone?

Ans. I should not do so, perhaps others might. I should not consider it right.

Cross-examined by Mr. J. S. Newberry, Counsel for the Libellants.

No. 1. If, on the night when the lights of the Atlantic could be seen from three to four miles, and while on her course from Buffalo to Point au Pelee, the propeller Ogdensburgh, on her route from Cleveland to Gravelly Bay makes the Atlantic's light about two points on her starboard bow, supposing her to be a north shore boat, if in command of the propeller, would you attempt to cross her bow to pass her?

Ans. I would if she was from two to two and one-half points on my starboard bow.

No. 2. In the answer to the last question, how far do you consider the propeller from the intersection of courses?

Ans. A short distance to the southward. I don't on the whole think she would be to the southward, but would be to the northward.

No. 3. In the answer to the first question, state what you would do if you made the Atlantic's red light under the same circumstances?

Ans. I would cross her bow if I could.

No. 4. If when within a mile of the Atlantic, the red light bearing about the same, what would you then attempt to do? would you then attempt to cross her bows?

Ans. I would, if she was from two to two and one-half points on my starboard bow, and bound up the lake.

No. 5. If you still made the light about the same, when within half a mile, would you then attempt to cross her bows?

Ans. I think on a thick night like that, when within half a mile, as near as can be judged on such a night, I should have stopped my engine. I understood the question on the cross-examination to be on the hypothesis that the vessels are sailing diverse on parallel courses.

No. 6. Suppose while on a propeller running to the northward and eastward you make a steamboat's red light, about three miles off, two points over the starboard bow, the steamboat steering S. W. by W., the steamer being to the northward of the propeller, if in command of the propeller, what would you do?

Ans. I would port my wheel, and go to the southward of the steamboat.

No. 7. In the condition above mentioned, when two miles off, what would you do?

Ans. I should pursue the same course.

No. 8. In the same condition, when one mile off, what would you do?

Ans. I should pursue the same course.

No. 9. In the same circumstances, when within half a mile, what would you do?

Ans. I should pursue the same course; any nearer than a half a mile I should stop the machinery.

No. 10. In a night when a steamboat's light could be seen from three to four miles off, would you consider it imprudent to leave the deck in charge of a second mate and wheelsman?

Ans. I should not think it was imprudent if the mate was a competent man. I never carried a second mate with me that I was not willing to trust on such a night as that.

No. 11. Is that the general custom on the lakes, as far as your knowledge extends?

Ans. I think it is the general custom.

Re-examined by Mr. Spalding.

No. 1. Upon the supposition that the Atlantic was on her course S. W. by W. $\frac{3}{4}$ W., running fifteen miles an hour, and made the light of the propeller over her larboard bow from one-half to three-quarters of a point—if when three-quarters of a mile off, the Atlantic first put her helm aport for half a minute, and then hard aport without abating her speed, could there be a collision with the propeller at all?

Ans. I say there could not.

No. 2. Was you a witness on the trial of this cause in the District Court? and if so, by whom was you called—the libellants or the respondents?

Ans. I was a witness on the trial—was called by Mr. Gardner on the part of the libellants.

JOHN SHOOK.

Deposition of Benjamin A. Stanard, taken before Richard C. Parsons, United States Commissioner for the District of Ohio, at his office, in the City of Cleveland, on the 18th day of March, A. D. 1854.

Dep'n of B. A. Stanard.

Question by Mr. Spalding.

No. 1. What has been your experience in the navigation of the western lakes, and what position do you now hold?

Ans. I commenced sailing upon the lakes about 1826, and continued until the fall of 1846. I have served as hand, master, and mate; was master of sailing craft for about thirteen years. Most of the time have been mate and pilot of steam vessels. I am now hull inspector of steam vessels under the new law, since the spring of 1847. I have been marine inspector for an insurance company. I reside at Cleveland, Ohio, and am forty-two years old.

No. 2. If you had the command of a propeller off Long Point in the night, laying your course N. E. by E. for the mouth of the Welland Canal, and should make the light of a steamer supposed to be bound for Detroit, two and one-half points over your starboard bow, distant, as you judged, from two to three miles, what would you do? Port or starboard your helm, or keep your vessel on her course?

Ans. I should keep her on my course.

No. 3. If that light, supposing it all the while to be an ordinary white light, upon close examination should be found to be closing in upon you without materially changing its bearing, would it be good management in you to slacken your speed, or what course would you pursue?

Ans. If I found the light was closing in upon me without materially altering its bearings, I should slacken my speed, until I found out, if possible, the character of the light and the course it was steering.

Ques. 4. If you had command of a steamboat running in the night, about fifteen miles an hour, and should, in a place much frequented by vessels, make a vessel's light within ¾ of a mile, half a point over your larboard bow, and if, upon porting your helm, you should find the light drawing nearer to you without opening materially, would you stop your engine or not? What would you do under such circumstances?

Ans. I should stop my engine.

Ques. 5. If the steamboat Atlantic, while off Long Point, and running S. W. by W. fifteen miles an hour, make the light of the propeller Ogdensburgh, steering her course N. E. by E., from ½ to ¾ of a point over her larboard bow, distant ¾ of a mile, as supposed, and the steamboat puts her helm first aport for half a minute, and then hard aport, without diminishing her speed, could there, by any possibility, be a collision between said vessels?

Ans. I should think not. I should think the steamer would get out of her way. She would turn before she reached the propeller.

Cross-examined by Mr. Emmons, Att'y for Libellants.

No. 1. In answering the last question in the direct examination, how far off did you suppose the steamer Atlantic was when she put her helm aport?

Ans. $\frac{3}{4}$ of a mile.

No. 2. What do you mean by a light "closing in," as contained in 3d question.

Ans. Coming nearer, but retaining its position in reference to the compass; that is, not altering its bearings.

No. 3. Suppose you were to see the white light of a vessel $\frac{1}{2}$ or $\frac{3}{4}$ of a point over your larboard bow at such a distance off as to give her ample time to port and clear you, and the light continues the same bearing, as the officer in charge of a deck of a steamer, would you not take it for granted, if you were showing your red light to the approaching vessel, that she would port before she reached you?

Ans. If I supposed her to be a steamer, I should think that she would. Sail vessels, as a general thing, keep their course.

4. What would you do on board the steamer?

Ans. I should check my speed until I found out which side of the light to go.

5. Would you always check your speed in meeting a white light $\frac{3}{4}$ of a point over your larboard bow if it did not alter its bearing?

If I am uncertain as to the character and positions of the light, I would stop and check my speed.

6. What do you mean by character and positions of the light?

Ans. I mean to ascertain whether it is a steamer or a sail vessel, and to find out, if possible, which way it is moving, and what part of the vessel it is located upon.

No. 7. Will you please answer my 5th question?

Ans. Yes, sir. I would check the speed of my vessel.

No. 8. Why?

Ans. For fear of a collision.

No. 9. Why would you fear a collision in such circumstances. Explain what the danger would be.

Ans. If the light by my nearing it did not alter its positions, I should think I was running too near the vessel. I would check my speed, to see which way the light was moving. If stationary, I should go on without altering my course.

No. 10. Would you stop to ascertain whether the light was stationary?

Ans. I should check the speed to ascertain the character of the light.

No. 11. You make a light three-fourths of a point over your larboard bow, and she is at anchor 3 miles off, how far will you have to run before the bearing of that light will be materially altered—running towards it?

Ans. It would not be materially altered until we came near it; that is, the bearing would not be materially altered.

No. 12. Suppose you were to make a white light ¾ of a point over your larboard bow in a still night, so that a sail vessel would not make more than a mile, or mile and one-half an hour, and that light did not alter its bearings, what would you do, supposing yourself in command of a steamer going towards it?

Ans. My conduct would be governed by the distance I supposed the light to be from me at the time.

13. Suppose it to be ¾ of a mile?

Ans. If I supposed it to be ¾ of a mile I should check my speed, to ascertain whether it was a steamer or a vessel; I mean not over ¾ of a mile off.

14. Did you ever do so, in similar circumstances, when on a steamer?

Ans. I believe I never met when on a steamer on the lake a light without knowing what it was. I have frequently checked my speed to prevent running into vessels, but knew that they were sail vessels at the time.

15. You say you have never been master of a steamer. How long have you been an officer on a steamboat of any kind?

Ans. About four months altogether on steamboats, part of this time was in 1841 and 1842 and 1845. I was master of a sail vessel about thirteen years. I commenced as captain 1832, and ended in 1846.

16. Suppose you make a white light ¾ of a point over your larboard bow, which is a mile or a mile and one-half off. She does not alter her bearings, would it not be good seamanship, without abating your speed (if running 16 miles an hour), to port your helm without slacking your speed?

Ans. I don't know that it could be called good seamanship to port your helm unless you knew what you did it for.

17. Will you answer a little more fully the last question?

Ans. I think it would not be good seamanship to port my helm unless I knew the direction the light was moving when I got within ¾ of a mile or less; if I had not previously ascertained the fact, I should slack my speed to find out.

18. Suppose the bearings of the light not to alter one way or the other?

Ans. I still answer the same way; if I did not know the character of the light, nor the way it was steering, I should check my speed if within ¾ of a mile of it until I ascertained the character and position of the light and the way it was moving.

18. If the bearings of the light did not alter, knowing the course of your own vessel, would not the fact that the bearings of the light remained the same, be absolute and conclusive evidence to you as a seaman that it would be safe to port your wheel for the purpose of passing her?

Ans. I should think it would be correct to port the wheel under these circumstances.

19. About how far off must the steamer Atlantic be from the propeller Ogdensburgh, supposing the steamer Atlantic is showing the propeller her red light about a point and a half over the propeller Ogdensburgh's larboard bow, in order for them to clear each other if they both port their wheels, the Atlantic sailing S. W. by W., and the propeller N. E. by E.

Ans. They need not port at all; let them keep their courses and they would pass without touching?

20. Suppose you are on board a steamer on her way from Buffalo to Detroit, and you make the light of a propeller coming over from Cleveland to the Welland Canal, you make her ¾ of a point to a point over your larboard bow, would you not suppose the propeller would pass under your stern, if you saw her a mile or a mile and a half off?

Ans. I should think the propeller would pass across my bows, if they were distant so far.

21. Suppose the vessels were running in a direction so that he could not cross your bows without danger of a collision?

Ans. I should suppose that the propeller would port his wheel, if the distance was so short he could not pass without danger of a collision.

22. Suppose you were on the propeller, you make the red lights of a steamboat two points and a half over the starboard bow of the propeller three miles apart. If you was on the propeller what would you do?

Ans. I should keep my course during the first mile.

23. I am supposing you to know that the red light is that of one of the regular steamers of the north shore, whose average speed is about 14 or 16 miles an hour, what would you do during the second mile?

Ans. I would check my speed if the light did not change its bearings.

24. If the light did not change its bearings would you not consider it entirely safe to port your wheel without checking your speed?

Ans. I should at a distance of two miles.

25. Would you not do the same at one mile if the light did not change?

Ans. I should, on the supposition that she showed the red light.

26. Suppose the bearings to continue precisely the same, you keeping on the same course, and you get within a half a mile, if you should port and the other vessel keep on her course, would there have been a collision, and would it be good seamanship to port your wheel?

Ans. I think there would not have been a collision. I think it would be good seamanship to port under the circumstances, she showing me her red light. When I sailed they had no red or green signal lights. I am familiar with them now.

BENJ. A. STANARD.

Deposition of William Caverly, taken before George G. Bell, United States Commissioner for the District of Michigan, at his office, in the City of Detroit, on the seventh day of March, A. D. 1854.

Dep'n of Wm. Caverly.

Witness saith: That he resides in Detroit, and has resided there for the last fifteen years. His occupation is that of a sailor, and he has been sailing on the western lakes for the last fifteen years. Was first mate of the May Flower, in the year 1851, and Robert McLane was the second mate. Deponent's watch in going from Detroit to Buffalo was the first night watch which brought the boat off Long Point between twelve and one o'clock. The second mate took the second watch from there to Buffalo. We generally met the Atlantic coming up between one and two o'clock in the morning below Long Point. Deponent recollects that on one occasion, in the summer of 1851, after he had turned in from his watch, and below Long Point, of the alarm bell ringing, which instantly awoke him, when he got up and went on deck, and the Atlantic was just past them. The engine of the May Flower had stopped. Deponent asked McLane what the difficulty was. McLane told him that it was always with great difficulty he got past the Atlantic, the latter always run so close and altered her course so much that it bothered him to know what to do, and for that reason he stated that the next time we met the Atlantic he would call deponent. A short time thereafter, on the downward trip of the May Flower, at about the same place above mentioned, and the same time, McLane came to deponent's room and called him out, and wished him to go on deck and see the Atlantic's actions until she was passed. Deponent got up and went on deck. Saw the Atlantic's light off a point and a half on our starboard bow. Deponent remarked to McLane that there would be no trouble, as the Atlantic would probably pass two or three miles from them, and deponent was about going below when the 2d mate, McLane, insisted upon staying and seeing the Atlantic pass, as he, McLane, was confident that the Atlantic would make for them before she got past. Deponent remained, and in a few minutes discovered a change of light on the Atlantic, and that she was nearing them. We found that she was coming so close that deponent jumped up on the pilot house and rung the bell to stop the engine himself. The May Flower was checked, and the Atlantic was heading right towards us, and shifted her course and passed within two or three rods of us. The Atlantic apparently did not check her speed, but passed under full headway. Captain Petty was first mate and Mr. Blodgett was second mate of the Atlantic at the time of the incident above related. McBride was master. Deponent also recollects that during the same season he had two difficulties in the Detroit River with the Atlantic in daylight, at both of which times when she was going down the river and the May Flower coming up, the Atlantic undertook to pass us on the starboard side. She came within twenty

feet of us under full headway at both times. Deponent further states that the conduct of the officers of the Atlantic, in running the boat as above stated, was bad management at the time, and, in his opinion, was reckless sailing.

Objection to Testimony.

(Objection was taken on the part of the libellants by Mr. Emmons, their counsel, to all that part of the above testimony that relates to the conversation between the witness and McLean.)

Cross-examined by Mr. Emmons, of Counsel for Libe'ts.

Has known Mr. Blodgett four or five years. Does not know much about his reputation as a seaman. Has known Mr. Petty five or six years. Thinks his reputation as a seaman is as good as ordinary sailing masters. Deponent has never sailed any steamer as master. Was on the May Flower as mate three years. The May Flower and the Atlantic was running in the same line. They were both carrying freight and passengers for the Michigan Central Railroad Line. Mentioned the circumstances above related that occurred in the river in the first place to Captain Van Allen, about their getting the wrong side of the river. Captain Van Allen said he would speak to Captain Ward about it, but don't know whether he did or not, but they afterwards kept the right side of the river. Talked about the circumstances above related that occurred off the Point to persons on the boat. Can't tell particularly to whom.

Ques. If you discover a steamer half a mile off, and she shows you her red light, what is your duty as a seaman under the late rules promulgated and in force at the time referred to?

Ans. It would depend how the vessel lay, whether she was coming head towards us or sideways.

Ques. Explain fully your duty when you see a steamer at the distance above named showing her red light in all the various attitudes contemplated by the rules in force at that time?

Ans. If I saw her dead-ahead I should port my wheel. If I saw her red light over the starboard one point, and within ½ a mile, I should stop my boat. If I should see her red light two points over the starboard, two points off, I should do the same. Never met a boat at three points off, and don't know what I should do under such circumstances. If I should meet one, probably I should continue on my course.

Ques. Suppose you make a steamer's red light from a point to a point and a half over the starbord bow, and she is three miles off, and the light closes upon you slowly, what would you do?

Ans. I would show her my red light, or in other words, I should port my wheel. If I were to meet a steamer on my way to Buffalo, and make her red light three miles off, a point or a point and a half over my starboard bow, and the approaching vessel was sailing in a line as nearly parallel with my own vessel as she could be, and have

me make her light over my starboard bow, the light of the approaching steamer would neither open or shut for the first mile.

Ques. Suppose the vessels to continue at the same speed and the same courses, how long before the red light would begin to close in?

Ans. It would remain the same until she passed.

Ques. If you make a steamer's red light a point and a half over the starboard, three miles off, and the light closes in upon you, what course does that indicate on her part?

Ans. It would indicate that she was going across our course, and in that case I should port my wheel if she was three miles off or two. If she was within half a mile I should stop.

Ques. Suppose you were going from Madison Docks to make the Welland Canal, and should make the red light of a steamer four miles off, a point and a half or two points over your starboard bow, which was on the way from Buffalo to Detroit, and to the north of you, and you should both continue your courses until you got within a mile of each other, what would you then do?

Ans. I would port my wheel and pass under her stern. I would not attempt to cross her bows.

The 2d mate of the Mayflower, McLean, always stood the second watch as before stated. On no vessel that I ever sailed has the captain ever stood a watch. I sailed with Capt. Blake eight years as mate and 2d mate, and he was the most careful man I ever sailed with, but I never knew him to stand a regular watch. In stormy and bad weather he used to be on deck sometimes, but as before stated never to my knowledge stood a regular watch. In that respect it made no difference whether it was the first or second mate's watch.

On the occasion I refer to above in my examination in chief, as to what occurred near Long Point, the Atlantic was six or eight miles off when I first made her light. The change of light I refer to brought her red light in view. When I was called by McLean and came on deck, I went forward to the pilot-house. I saw by the compass that we were on our course, and the Atlantic was about 8 or 10 miles off, a point or a point and a half on our starboard bow, and I supposed at first that she would pass two or three miles to the south of us. The May Flower did not alter her course; the second mate was by my side; saw no other vessel in sight that I recollect. When we rung the bell to stop, the Atlantic was a mile off at least; it might be more. The two instances referred to in my direct examination that occurred in the river, were caused by the Atlantic's attempt to hug the Canada shore, when she ought to have run on the other side. Was in the habit of meeting the Atlantic as we passed each other four times a week; we sailed so three seasons. Never heard the Atlantic make any complaint of the sailing of the May Flower.

Ques. Did you ever hear Capt. Eber B. Ward, in relation to the affair off Long Point, make the following remark—"Unless some

explanation can be given for the mistake of the officer in command on board the May Flower, in not porting their wheel, he would insist on his being discharged" ?

Ans. I never did. I know Capt. Ward; do not remember of seeing Capt. Ward a good deal excited on board the May Flower, the next time she came into Detroit after this incident. I did not reverse the machinery of the May Flower, but only stopped it, according to the best of my recollection. I was first mate of the May Flower at the time she went ashore. I have heard it said, and I have no doubt of the fact that Capt. Ward was instrumental in getting Capt. Van Allen dismissed from the May Flower at the time she was lost. Capt. Ward took various captains to Mr. Brooks, the superintendent, introduced them as men who were just as good sailors as Van Allen, and who would sail for a less salary; at least that was the report. I never heard Captain Ward say anything myself. I told Mr. Nelson this, and he wrote to Capt. Van Allen about it. I was discharged from the May Flower, that is I consider it the same thing. I signed a complimentary letter for Capt. Van Allen. Capt. Willoughby told me Mr. Brooks was dissatisfied with me because I had signed that letter, and he, Capt. Willoughby, wished me to go and talk to Mr. Brooks, which I declined to do, and they employed somebody else in my place. I have no personal feeling or ill will against Capt. Ward, and don't know that he has any against me. I never asked any favors of him, and don't know that he ever extended any to me. The discharge of Capt. Van Allen from the May Flower produced a good deal of feeling, and was a subject of a good deal of discussion with the public. Don't know anything more in relation to the matter.

WM. CAVERLEY.

Depositions of Harry Whitaker, William T. Pease, Augustus Whitaker, Alonzo D. Perkins, and Henry Van Allen, taken before Benoni Thompson, United States Commissioner for the Northern District of New York, at his office in the City of Buffalo, on the 25th and 27th days of March, A. D. 1854.

Deposition of Harry Whitaker.

Questions by Mr. Spalding, proctor for respondents.

No. 1. Where do you reside, and what has been your experience in the navigation of the western lakes?

Ans. I reside in Buffalo, Erie County, and State of New York, and I have had thirty-four years' experience in navigation upon the lakes, mostly in steamboats, and as master.

No. 2. What steamboats have you commanded upon the lakes? name them.

Ans. I have commanded the steamboats Superior, Pioneer, Enterprise, Sheldon Thompson, Monroe, Champlain, North America, Columbus, United States, A. D. Patchen, Wisconsin, and Golden Gate.

No. 3. If you had command of a propeller off Long Point in the night season, laying your course N. E. by E. for the mouth of the Welland Canal, and should make the light of a steamer supposed to be bound for Detroit, $2\frac{1}{2}$ points over your starboard bow, distant as you judged from two to three miles, what would you do, port or starboard your helm, or keep your vessel on her course?

Ans. I should keep her on her course for safety.

No. 4. If that light, supposing it all the while to be an ordinary white light, upon close examination should be found to be drawing nearer to you, without materially changing its bearings, would it be good management in you to slacken your speed, or what course would you pursue?

Ans. It would be good management to slacken the speed, and if the light still approached nearer to stop and back, as the only alternative to prevent a collision; this is the course I have always pursued and directed my men to pursue to prevent collisions. I mean by "men," mates and wheelsmen. I give such orders to the wheelsman because the mate sometimes is obliged to leave the deck. I did say, after I said the words following in the first place—"It would be good management to slacken the speed." I should think there would not be much danger if the vessels were running in opposite directions, or nearly so, notwithstanding the lights approached each other.

No. 5. If you had command of a steamboat, running in the night fifteen miles an hour, and should in a place much frequented by vessels make a vessel's light within three-quarters of a mile or a mile, one-half a point or $\frac{3}{4}$ of a point over your larboard bow, and if upon porting your helm you should find the light drawing near to you, without opening materially its bearings, would you stop your engine or not? what would you do under such circumstances?

Ans. I would stop my engine and back.

No. 6. If the steamboat Atlantic, while off Long Point, and running southwest by west 15 miles an hour, made the light of the propeller Ogdensburgh, steering her course northeast by east, from a half to three-fourths of a point over her larboard bow, distant three-fourths of a mile, as supposed, and the steamboat put her helm first aport for a half a minute, and then hard aport, without diminishing her speed, could there by any probability, in your judgment, have been a collision between said vessels?

Ans. There could not.

No. 7. According to your judgment and experience, when is it proper under the rule for a steamer on the lake to port her helm?

Ans. When the light is dead-ahead.

No. 8. If two steamers come into collision in the night season, what course should be pursued by their respective commanders? is it proper for each one to proceed on her way, or should each stop and ascertain her own and her adversary's damage?

Ans. They should each stop and ascertain the damage, and repair damage, as far as they could, and aid one another.

No. 9. If the steamer Atlantic was cut open by the collision with the Ogdensburgh to a point below the water line, near the forward larboard gangway, would or would not her chance for sinking be increased by keeping her in motion?

Ans. It would be very much increased.

No. 10. Would or would not a second mate and wheelsman, both inside of the pilot house, constitute a suitable watch on the deck of the steamboat Atlantic when off Long Point, in a hazy night, with five hundred passengers on board?

Ans. I think they would not.

HARRY WHITAKER.

The counsel for libellants waive cross-examination of witness Whitaker.

Agreement of Counsel.

It is agreed by the counsel on both sides that, in order to save time, the commissioner may read to the remaining witnesses of respondents, who are examined here as experts, the several questions propounded by Mr. Spalding to Captain Harry Whitaker, and contained in his deposition, and the answers only need be reduced to writing, with the numbers of the questions to which they respond.

Deposition of William T. Pease.

To Ques. No. 1. I reside in the City of Buffalo, in the County of Erie, and State of New York, and have had twenty-five years' experience in navigation upon the lakes in steamboats and vessels as master, mate, and every capacity.

To Ques. No. 2. I have commanded the Pioneer, Niagara, Superior, Michigan, Boston, Niagara (another boat), Alabama, and Crescent City. This last boat I now command.

To Ques. No. 3. I should keep her on her course.

To Ques. No. 4. I should check the boat until I ascertained what it was.

To Ques. No. 5. Witness says, I should stop the engine if I was not certain.

To Ques. No. 6. Of course not.

To Ques. No. 7. If they were on a line steering for each other, they should port their helm until they open each other's red lights.

To Ques. No. 8. They should both stop and ascertain the extent of damage to both, I should think.

To Ques. No. 9. Yes, sir. I think it would; there would be more pressure.

To Ques. No. 10. I should not think they would be such a watch as such a boat ought to have in such a night.

Cross-examined by H. H. Emmons, of Counsel for Lib.

No. 1. Suppose you are in command of a steamer off Long Point the night such that you can see a plain white light from three to five miles, and make such a light one point over your larboard bow, and you showing your red light to the approaching vessel, would you deem it necessary to check your speed in the least, or would you not port and go along with confidence?

Ans. Unless you know that you are not coming into it, you would check the vessel.

No. 2. If you make a white light one point on your larboard on such a night as described, and it did not close in upon you, would not that fact be evidence to you that you could pass her with safety by porting the helm, and that, too, without slacking your speed in the least?

Ans. I think if the light was not closing upon you that you could go by in safety, still I should think it would be prudent to check.

No. 3. Suppose you make a plain white light dead ahead, and, after a moment's observation, she does not alter her bearings, do you mean to swear that it is the usual practice on the lakes, and that good seamanship requires that the speed of the steamer should be checked. Should she not port, relying upon the fact that the vessel bearing the white light should keep her course?

Ans. I do not mean to swear that that is the custom; there is no custom about it. A steamboat might go on either side, and her speed need not be checked in such a case.

No. 4. Do the rules of navigation require a sail vessel to carry a plain white light, and, when meeting a steamer, to keep their course; and do not sailing masters of steamers, when meeting plain white lights, regulate the course of their own vessels, in the expectation that they will keep their course?

Ans. It is customary for vessels to carry a light; I don't know about the rules; and it is supposed that a sail vessel will keep her course. Seeing a light in the distance dead ahead, we cannot tell until it is near by whether it is at rest or approaching us.

No. 5. Is it not less necessary to check the speed of a steamer where she makes a plain light a point over her larboard bow than if she made the same light dead ahead?

Ans. If the steamer wants to go on the port side of the vessel, it is not so necessary, and I should go on her port side, and, in such circumstances, I should port my wheel.

No. 6. If you were on a propeller coming over from Ashtabula to the Welland Canal, and you make the red light of one of the north shore steamers about three miles off, running in August, 1852, two points over your starboard bow, would you not keep the red light of the steamer in view by porting your helm if necessary, and thus pass under the stern of the steamer, instead of attempting to cross her bows?

Ans. Yes, sir.

No. 7. If you were in command of a steamer with a hole knocked in her so big that you were certain she would fill in thirty minutes, and were within one or two miles of shore, would you not attempt to run her ashore, and, under such circumstances, with five hundred passengers on board, would you stop to examine the other vessel?

Ans. I would try to run her ashore if I knew all these things.

No. 8. Suppose a plain white light can be seen from three to five miles, and the mate upon watch has just taken a fresh survey of the lake in all directions, do you count it a fault that he should step for a moment into the pilot house and look ahead; and is not this frequently done by officers in charge of the deck of steamers on the lake?

Ans. Yes, it is often done. I would not count it a fault; they frequently go in there; they go in there sometimes to see the compass, and to see the course of the boat.

In reply to a question put to witness by Mr. Emmons, witness says he has a copy of the late law of Congress, but not a copy of the rules adopted by the Board of the Supervising Inspectors.

Re-examined by Respondents' Counsel.

No. 1. Upon the supposed statement of facts embraced in hypothetical question No. 6, in your cross-examination, if, when the vessels approached within three-fourths of a mile of each other, both keeping their course thus far, the steamboat put her helm aport and then hard aport, without abating her speed, could the collision have taken place at all?

Ans. I think not, if they were in that position.

No. 2. Please to state the proper place for a look-out on the deck of a steamer on such a night as the one is represented to have been when this collision took place: that is to say, a still night with a haze some thirty feet above the surface of the water.

Ans. I think he ought to be somewhere about the pilot house, sometimes inside and sometimes outside. I keep a man exclusively for that purpose; he is not the mate. Sometimes we can see better inside than he can out; this is when there is a rain or strong wind. I never kept an extra look-out until last season.

W. T. PEASE.

Dep'n of Augustus Walker.

To Ques. No. 1, witness saith: I reside in the City of Buffalo, in the County of Erie and State of New York, and have had thirty or more years' experience, and twenty years of the time as master of steamboats.

To Ques. No. 2. I have commanded the Sheldon Thompson, George Washington, Columbus, Vermillion, Great Western, Niagara, and Empire, and at this time I am one of the Supervising Board of Steamboat Inspectors under the law of Congress of 1852.

To Ques. No. 3. I should keep my course.

To Ques. No. 4. I should slacken my speed; check down.

To Ques. No. 5. I should check her right down.

To Ques. No. 6. If the propeller kept her course, it would be impossible.

To Ques. No. 7. When they are meeting directly ahead. No rule requires you to port, only when you meet dead ahead.

To Ques. No. 8. They should stop and inquire if they were in distress.

To Ques. No. 9. I should think it would.

To Ques. 10, witness says: I should think it was not the proper place for those two men, they being all the watch.

Ques. In hypothetical question No. 6, state, if you please, how the propeller could change her course to bring about a collision, if the steamboat ported her helm, and then jammed it hard aport, without abating her speed of fifteen miles an hour, supposing her to be to the northward of the propeller, and three-quarters of a mile distant, when she put her helm aport?

Ans. I do not know what the propeller could do to get into her. The steamer being to the northward, under such circumstances, it would be impossible for a collision.

Cross-examined by Libellants' Counsel.

Ques. If you are in command of a propeller going northeast by east for the mouth of the Welland Canal, and make a plain white light two and a half points over your starboard bow at first two to three miles off, as you near each other it does not materially change its bearing, would you not take for granted that she would keep to the starboard of you, and would not you keep your course with confidence with unabated speed?

Ans. If I saw her over my right I should keep my course; if she was two and a half points over my starboard bow it would not be necessary to check. If I should see a plain white light I should take it to be a sail vessel and that she would keep her course.

Ques. Suppose you are on the propeller running northeast by east towards the Welland Canal, and you should make the red light of one of the north shore steamers, as they ran in August, 1852, on its course from Buffalo to Detroit as they usually do run, and made it about three miles off, about two and a half points over the starboard bow, and so at any rate that if your course was continued it would cross the course of the steamer under her bows, would you not keep her red light in view, port your wheel, pass under her stern, instead of attempting to cross her bows?

Ans. In these circumstances I would port the wheel and pass under her stern.

Ques. Suppose you can see a light from three to five miles—still night, and the officer of the deck has just taken a full survey of the lake in all directions, supposing the windows of the pilot house to

be open, and the house so located, and as it was upon the Atlantic, as to command an unobstructed view for at least two points abaft the beam, would you count it a fault for such officer to step a moment into the pilot house and take a view of the lake from there?

Ans. It would not be a fault to step in for a moment and look at the course, and out again—this is frequently done.

AUGUSTUS WALKER.

Deposition of Alonzo D. Perkins.

Questions by Mr. Spalding, proctor for respondents.

No. 1. What is your experience in the navigation of the western lakes?

Ans. I commenced my seafaring life on the Atlantic at fourteen years of age, and when the mate of the ship left New York for the western country. I came to Buffalo in 1839. I have been master of steamboats for the last ten years, and for the two last years commander of the Southern Michigan running from Buffalo to Toledo.

No. 2. Suppose yourself on the deck of a propeller on her way from Cleveland to the mouth of the Welland Canal—it is the night season, with a light wind and somewhat smoky for 20 or 30 feet above the surface of the water, you make a light when off Long Point, bearing two and a half points over your starboard bow, distant, as you judge, two and a half or three miles. Your course by the compass at this time is N. E. by E., the light is an ordinary white light, and you may suppose it to belong to one of the large steamers bound for Detroit, how will you manage your vessel (the propeller) under these circumstances?

Ans. I should keep my course and watch the light.

No. 3. Suppose yourself as the officer of the deck on board said propeller, now at your station on top of the pilot-house with the scuttle open so that you may look upon the compass, and upon taking the bearings of the distant light, you find that after opening a trifle it becomes stationary in its bearings, or nearly so, and that it is rapidly coming in upon you, no signal light being yet visible, what now will be your conduct, supposing your vessel heavily loaded and running eight miles an hour?

Ans. I should check my engine, and if the lights kept nearing me, I should stop and reverse.

No. 4. After checking down your speed, say to three miles an hour, and so running for the space of three or four minutes, you suddenly discover a large steamer lifting herself out of the haze about four times her length off, and presenting both her signal lights nearly at the same instant; she bears now three points over your starboard bow, and appears to be heading for the lights on the propeller near where you stand. She comes on at top speed, say fifteen miles an hour, what course does this train of circumstances call upon you to pursue?

Ans. Stop my engine and reverse it.

No. 5. You will now please to take the command of a steamboat bound from Buffalo to Detroit, with five hundred passengers; you are in the neighborhood of Long Point at 2 o'clock A. M., the atmosphere is smoky on the surface of the water, as stated in question No. 2 of your deposition; you are running at your top speed, which is not less than fifteen miles an hour; what sort of a look-out will you keep for approaching vessels, and in what part of your steamboat will you place your watch in such a night and in a place frequented by other crafts?

Ans. I should place my watch on top of the pilot-house where he can see all around him, and where he can reach the bells and stop the engine in a moment.

No. 6. Your course by the compass is now southwest by west three-quarters west, you make two small white lights a little over your larboard bow, say from a half to three-fourths of a point, about a mile distant as you judge, you port your helm, but immediately perceive that the lights are approaching you fast without materially opening their bearings, you are not certain as to the character and course of the other vessel, would you throw your wheel hard aport and continue on with unabated speed, and if not, what would you do?

Ans. I should stop my engine.

No. 7. Suppose now that the steamboat Atlantic running fifteen miles an hour, makes the light of the propeller Ogdensburgh three-fourths of a point over her larboard bow, the steamboat steering southwest by west, and the propeller north E. by E., and when the light is made they are about six miles apart, the Atlantic immediately on discovering the light ports her helm, and in half a minute more jams it hard aport without in the least degree abating her speed; can it be possible that the Ogdensburgh, even at her best sped of eight miles an hour, will overtake the Atlantic and bring about a collision under such circumstances; please to give your opinion in regard to it?

Ans. I should think it would be impossible.

No. 8. What class of vessels do sailors upon Lake Erie recognize those to be which carry two white lights at the cross-trees?

Ans. Lower lake propellers; and an intelligent seaman familiar with the western waters would so recognize them.

A. D. PERKINS.

Mr. Emmons, of counsel for libellants, waives the privilege of cross-examination of this witness.

be open, and the house so located, and as it was upon the Atlantic, as to command an unobstructed view for at least two points abaft the beam, would you count it a fault for such officer to step a moment into the pilot house and take a view of the lake from there?

Ans. It would not be a fault to step in for a moment and look at the course, and out again—this is frequently done.

AUGUSTUS WALKER.

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Ans. I commenced my seafaring life on the Atlantic at fourteen years of age, and when the mate of the ship left New York for the western country. I came to Buffalo in 1839. I have been master of steamboats for the last ten years, and for the two last years commander of the Southern Michigan running from Buffalo to Toledo.

No. 2. Suppose yourself on the deck of a propeller on her way from Cleveland to the mouth of the Welland Canal—it is the night season, with a light wind and somewhat smoky for 20 or 30 feet above the surface of the water, you make a light when off Long Point, bearing two and a half points over your starboard bow, distant, as you judge, two and a half or three miles. Your course by the compass at this time is N. E. by E., the light is an ordinary white light, and you may suppose it to belong to one of the large steamers bound for Detroit, how will you manage your vessel (the propeller) under these circumstances?

Ans. I should keep my course and watch the light.

No. 3. Suppose yourself as the officer of the deck on board said propeller, now at your station on top of the pilot-house with the scuttle open so that you may look upon the compass, and upon taking the bearings of the distant light, you find that after opening a trifle it becomes stationary in its bearings, or nearly so, and that it is rapidly coming in upon you, no signal light being yet visible, what now will be your conduct, supposing your vessel heavily loaded and running eight miles an hour?

Ans. I should check my engine, and if the lights kept nearing me, I should stop and reverse.

No. 4. After checking down your speed, say to three miles an hour, and so running for the space of three or four minutes, you suddenly discover a large steamer lifting herself out of the haze about four times her length off, and presenting both her signal lights nearly at the same instant; she bears now three points over your starboard bow, and appears to be heading for the lights on the propeller near where you stand. She comes on at top speed, say fifteen miles an hour, what course does this train of circumstances call upon you to pursue?

Ans. Stop my engine and reverse it.

No. 5. You will now please to take the command of a steamboat bound from Buffalo to Detroit, with five hundred passengers; you are in the neighborhood of Long Point at 2 o'clock A. M., the atmosphere is smoky on the surface of the water, as stated in question No. 2 of your deposition; you are running at your top speed, which is not less than fifteen miles an hour; what sort of a look-out will you keep for approaching vessels, and in what part of your steamboat will you place your watch in such a night and in a place frequented by other crafts?

Ans. I should place my watch on top of the pilot-house where he can see all around him, and where he can reach the bells and stop the engine in a moment.

No. 6. Your course by the compass is now southwest by west three-quarters west, you make two small white lights a little over your larboard bow, say from a half to three-fourths of a point, about a mile distant as you judge, you port your helm, but immediately perceive that the lights are approaching you fast without materially opening their bearings, you are not certain as to the character and course of the other vessel, would you throw your wheel hard aport and continue on with unabated speed, and if not, what would you do?

Ans. I should stop my engine.

No. 7. Suppose now that the steamboat Atlantic running fifteen miles an hour, makes the light of the propeller Ogdensburgh three-fourths of a point over her larboard bow, the steamboat steering southwest by west, and the propeller north E. by E., and when the light is made they are about six miles apart, the Atlantic immediately on discovering the light ports her helm, and in half a minute more jams it hard aport without in the least degree abating her speed; can it be possible that the Ogdensburgh, even at her best sped of eight miles an hour, will overtake the Atlantic and bring about a collision under such circumstances; please to give your opinion in regard to it?

Ans. I should think it would be impossible.

No. 8. What class of vessels do sailors upon Lake Erie recognize those to be which carry two white lights at the cross-trees?

Ans. Lower lake propellers; and an intelligent seaman familiar with the western waters would so recognize them.

A. D. PERKINS.

Mr. Emmons, of counsel for libellants, waives the privilege of cross-examination of this witness.

Deposition of Henry Van Allen. In answer to questions put to Alonzo D. Perkins, in his foregoing deposition, as follows, to wit:

Dep'n of H. Van Allen.

To Ques. No. 1 witness says: My experience is about twenty years as master of steamboats and also as owner of steamboats. I have commanded on Lake Erie the following steamboats: Thomas, Kent, Emerald, London, Canada, May Flower, and Empire State.

To Ques. No. 2. I should keep my course till I was satisfied there was some necessity of changing.

To Ques. No. 3. I think I should stop my engine.

To Ques. No. 4. I should stop and back, of course.

To Ques. No. 5. I should place my watch on the top of the pilot-house or some conspicuous place forward.

To Ques. No. 6. I should have slowed my engine and probably stop it when there is necessity.

To Ques. No. 7. If they were that distance apart, I should think it impossible.

To Ques. No. 8. They recognize them as Lake Ontario vessels, commonly called lower lakers.

H. VAN ALLEN.

Mr. Emmons, of counsel for libellants, waives the privilege of cross-examination of this witness.

Deposition of O. Salisbury, taken before John C. Grannis, United States Commissioner for the District of Ohio, at his office in the city of Cleveland, on the 30th day of June, A. D. 1854.

Dep'n of O. Salisbury.

Examined by R. P. Spalding, Esq., Proctor for Def'ts.

Ques. What experience have you had in the navigation of the lakes?

Ans. I commenced sailing upon the lakes in 1830 or 31. I first commenced as cook, then acted as hand before the mast, then as mate and master. I have been mate or master of boats since 1834. I have never been mate of a vessel since 1834, always master. I have been mate and master of steamboats.

Ques. What vessel did you command on the 19th and 20th of August, 1852, and where were you sailing on the night of said 19th and 20th August?

Ans. I commanded the schooner Telegraph from July to the close of navigation in that year. The night of the collision I was bound from Detroit to Buffalo, and passed Long Point light about 7 or 8 o'clock that evening. It might have been a little later.

Ques. How far to the southward of the light did you judge yourself to be when you passed it?

Ans. I don't think we were over six or eight miles. We were on the usual course for vessels bound down, and were going with a free wind. We had a good breeze when we passed the point, and we were going at the rate of six or eight miles an hour. At that time the wind was dying away, and canting more to the southward. At the time we met the Atlantic there was but very little breeze.

Ques. You speak of meeting the Atlantic. I wish to know if you mean the steamboat Atlantic which was sunk that night in consequence of a collision with the propeller Ogdensburgh. If so, please tell where you met her, at what time of night, and under what circumstances.

Ans. Yes, sir, I mean the st. bt. Atlantic, which was sunk that night. As near as I can judge, it was from twelve to eighteen miles from Long Point light. I think the Atlantic was bearing a little to the eastward of east-northeast from Long Point light, at the time we met her. We met her about twelve o'clock at night. On reflection, I think we must have passed Long Point light a little after eight o'clock in the evening. The Atlantic was bound up the lake. We passed so close that I read her name distinctly. She was well lighted up, and I should think we could not have been over six or eight rods apart. She passed us on our larboard side.

Ques. I wish you now to state the relative position of the Atlantic at the time you passed her in regard to the north shore. Was she well in to the north shore, or well out to the southward, or was she in the ordinary route for steamboats running from Buffalo to Detroit?

Ans. I should think she was in the ordinary course where steamboats generally run. If anything, a little to the southward. In clear weather, I don't think steamboats generally run so far to the southward as she was that night. They generally go nearer to Long Point.

Ques. What was your course by the compass from off Long Point to the place where you met the Atlantic, running with a free wind?

Ans. We generally steer under such circumstances east-northeast.

Ques. What was the state of the atmosphere that night from 12 to 2 o'clock?

Ans. The atmosphere was rather hazy on the surface of the lake, but by stepping a little aloft on the rigging we could see off some distance. The stars were visible.

Ques. I wish to know if lights placed at the cross-trees of your schooner would have been above the haze as it rested upon the water that night?

Ans. I think they would.

Ques. In meeting a vessel when sailing upon the lake, if you make a common light one or more points over either bow, do you alter your course before you ascertain the exact course of the approaching vessel? What is your practice in such cases?

Ans. I generally get the bearings of the light, and if she is nearing

our course we watch her closely. If the light opens, we keep our course. If the light nears us without opening, we stop if the light is close to us. If we make the light straight ahead we port. That is the general rule.

Ques. Suppose you had charge of the propeller Ogdensburgh running on her course from the Welland Canal N. E. by E., and you make the light of the steamboat Atlantic on her way to Detroit two and a half points off your starboard bow, distance say from two to three miles, how would you manage your vessel after making that light?

Ans. I think I should have kept her on her course and watched the lights. If she had neared our track I should have stopped my vessel. I mean by nearing our track closing in upon us.

Ques. Suppose yourself in command of the steamboat Atlantic, and making the propeller's light within a mile of you three-fourths of a point over your larboard bow, you running fifteen miles an hour, how would you manage the steamboat in case you did not know the character and course of the propeller?

Ans. It would generally be the rule that we should port the wheel of the Atlantic. If after porting the wheel of the Atlantic we neared the light without opening it, I should have stopped the steamboat.

Ques. Upon the supposition that the steamboat Atlantic, running up the north shore on the night of the 19th and 20th of August, 1852, made the light of the propeller Ogdensburgh bound for the Welland Canal three-fourths of a point over her larboard bow, distant one mile, and that upon making the light of the propeller the Atlantic put her wheel first aport and then hard aport without checking her speed, could there, in your judgment, have been a collision?

Ans. There could not have been a collision if she had put her wheel hard aport for a quarter of a mile. If she had only had her wheel slightly aport it might not have made much difference with her course in a short time.

Ques. If a steamboat receive a wound in her side near the bow, when will she sink the quickest, when running ahead or when at rest?

Ans. She would sink quickest when in motion.

Ques. What do you deem good practice in the navigation of steamboats upon the lakes when you make lights ahead or nearly so, and in close proximity, without knowing the course of the other vessel?

Ans. Making a light ahead or nearly ahead, and not knowing the position they are in, it is invariably my practice to stop.

Cross-examined by H. H. Emmons, Att'y for Pl'ffs.

Ques. Suppose on a calm night you make a plain white light either directly ahead or three-fourths of a point over your larboard, and after watching her a moment it neither opens or closes so that you would know that she was either at anchor or running on a parallel course with your own, do you mean as a seaman to say that there

would be any necessity to slacken the speed of your vessel, even if the steamboat were running at the rate of eighteen miles an hour?

Ans. There would be no need of it if she were running fifty miles an hour, if I knew to a certainty what the other vessel would do. I mean if I knew whether she was at anchor or running on a parallel line with my own vessel.

Ques. If the light described in my previous question neither opened or closed for a half a minute, would it not be conclusive evidence, and such evidence as a seaman always acts upon, that it was either at rest or running on a line the same as your own or parallel with it, or directly from you?

Ans. It would show one or the other.

Ques. How far off did you see the Atlantic's lights that night?

Ans. Three or four miles off, as near as I could judge.

ONEY SALISBURY.

Deposition of Richard C. Parsons, taken before John C. Grannis, United States Commissioner for the Northern District of Ohio, at his office in the City of Cleveland, on the 6th day of September, A. D. 1855.

Dep'n of R. C. Parsons.

Ques. Where do you reside, and what is your occupation?

Ans. I reside at Cleveland, Ohio. I am an attorney-at-law.

Ques. Was you present during the whole time of the first examination of Capt. De Grass McNett when his deposition was taken in the case of E. B. Ward *et al.*, ag't Philo Chamberlain *et al.*, in the winter of 1853? if so, state your recollection as to anything that was then and there said by De Grass McNett in respect to the signal lights of the Atlantic, and any dispute, if any, in regard to the same that occurred on that occasion.

Ans. I was acting as United States Commissioner at the time, and took the deposition of De Grass McNett in the above case. All I remember of anything being said by De Grass McNett about the signal lights of the Atlantic, is this: at about the close of the examination Mr. McNett, the attorney from Buffalo, put a question to De Grass McNett as to what light or signal light he would have seen first from the propeller, the vessels each steering in certain directions; what those directions were I do not now remember. Mr. McNett, the witness, made a reply as to which light he would have seen, but the answer I cannot remember. Mr. McNett, the attorney, then said, somewhat hastily, "That is impossible," or words to that effect. The deposition was then closed. Mr. McNett, the attorney from Buffalo, then attempted to show his brother that he was wrong in the answer he had given, and attempted to illustrate it by books upon the table. I remember distinctly that they cleared away the things upon my table and took my books, and after getting the points of the compass Mr. McNett, the att'y, placed the books in positions re-

presenting the course of the vessels. Mr. Tilden, Mr. Wade, Capt. Lundy, and one or two others were present. The mate, Mr. McNett, said to his brother, the lawyer, "You are wrong in your idea," or words to that effect. "That is not the position of the vessels at all." Mr. McNett, the witness, then took the books and placed them in a different position, and said, "That is the way the vessels were bearing." Mr. McNett, the lawyer, then said, "If that is so, he had all the time mistaken the position of the vessels; and if that was the position of the vessels as shown on the table, his brother was right." I remember this occurrence well, as considerable loud talk occurred, and the table and my desk and the floor were all freely used to illustrate the position of the vessels.

Ques. What is your connection now with Mr. Spalding, and what was it at that time?

Ans. At the time the deposition was taken, I was practising law alone. About a year after this, Mr. Spalding and myself formed a partnership for the practice of the law, and we are still partners. Mr. Spalding has had the entire control and management of this suit.

RICHARD C. PARSONS.

Deposition of Andrew J. McNett, taken before John C. Grannis, United States Commissioner for the Northern District of Ohio, at his office in the City of Cleveland, on the 6th day of September, A. D. 1855.

Deposition of And'w J. McNett.

Ques. by R. C. Parsons, Esq.

Where do you reside, and what is your occupation?

Ans. I reside in Buffalo, New York, and am a lawyer.

Ques. What is the relationship subsisting between Capt. De Grass McNett and yourself?

Ans. We are brothers.

Ques. Was you present during the whole time of his examination before R. C. Parsons, U. S. Com'r, when his first deposition was taken in this case, in the winter of 1852–3? If yea, state your recollection and means of recollection in regard to what the said De Grass McNett then and there said and did, in respect to the signal lights of the Atlantic, and when he first saw her red signal lights; state all that was said and done on that occasion in relation to said signal lights by said De Grass McNett, whether embraced in said depositions or not?

Ans. I was present at the time of taking the examinations mentioned, and assisted in taking that examination; as near as I can recollect, it was in the month of February, 1853, at Cleveland, Ohio. My recollection is that De Grass McNett on that examination did not speak of seeing either of the signal lights, until the steamer was within three or four times her length off from the propeller, and ap-

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peared to be steering about at the pilot house on the propeller. When he spoke of seeing the steamer at a greater distance than above specified, off—he spoke of her lights blended together, making a general white light.

Upon that examination I asked the following question, to wit: "Which light of the steamer would you necessarily see, she running W. S.W. and you steering N. E. by E., and you at the same time making her light two points over your starboard bows?"

He answered as follows, to wit: "We would see her starboard lights."

At the time I asked the foregoing question, I was under the impression that it was possible for the propeller to make the light of the steamer two points over her starboard bows, as supposed in said questions, before she had arrived at the point of the intersection of their courses.

When DeGrass answered as above quoted, I remarked that it was impossible. I then went to the table and placed two books as I supposed the vessels to be, as follows:—P, the propeller, and S, the steamer.

[For Diagram, see page 691.]

Showing that the vessels would see each other on the red lines from the larboard bows of the steamer, and from the starboard bows of the propeller. When I had the vessels so placed, De Grass came up and said, "but that is not the way that the vessels were." He then placed the books represensing the vessels as follows, to wit: P, the propeller, and S, the steamer.

[For Diagram, see page 692.]

He represented the vessels so that the propeller was to the northward of the track of the steamer, and so that they would respectively see each other as represented by the red dotted line. He did not at any time during that examination, or conversation represent that the propeller was to the southward of the track of the steamer. I heard all that was said in the conversation spoken of by Tilden and Wade, and I know that De Grass McNett did not by word or representation, say, or in any manner indicate, that the propeller was to the southward of the steamer. The principal part of that conversation was carried on between me and Capt. Lundy. I placed the book in a manner indicating that the propeller was to the south of the track of the steamer. I placed the books in that manner, to prove that the answer was wrong, supposing at that time that the propeller could under the circumstances suggested in the questions, make the light of the steamer two points over her starboard bows, which I now know to be impossible, there being no such angle to the south of the point of the intersection of the courses, found by the

lines of their respective courses. I recollect distinctly all that was said and done at the times of the conversations mentioned by Messrs. Wade & Tilden, for the reason that I thought the answer of De Grass to be wrong, and I was anxious to correct this supposed error—no measurements were made at the time, nor were any diagrams drawn. We used books to indicate the courses and positions of the two vessels. When I before spoke of blending the lights, I mean that he spoke of a light which I understood to be as within mentioned; he did not say signal light, but said light. The examination above spoken of, may have been in the month of January, 1853. It was the first time that De Grass was examined in this cause.

Cross-examined by Mr. Emmons.

Ques. Was the controversy you had with your brother in reference to the correctness of his answer to the last question of the direct examination put to him?

Ans. It was.

A. J. McNETT.

Deposition of James Munroe, taken before John C. Grannis, United States Commissioner for the Northern District of Ohio, at his office in the City of Cleveland, on the 6th day of September, A. D. 1855.

Dep'n of Jas. Munroe.

Witness saith: I reside in Cuyahoga County, Ohio. I am by profession a seaman. I was present at the time of the taking of De Grass McNett's deposition before R. C. Parsons, U. S. Com'r, in the winter of 1852–3. I have had the deposition of A. J. McNett carefully read to me, and understand the same fully. The statements made by him relative to the signal lights is precisely as I remember the facts to be, and I remember distinctly the dispute between the mate (McNett), Capt. Lundy, and the lawyer, McNett, as to the courses of the vessels and the positions they were in, and I concur fully in the above statement and deposition of Andrew J. McNett, and my recollection is precisely as he has stated his to be.

JAS. MUNROE.

The above deposition of James Munroe is taken in the manner it is—Corroboration of A. J. McNett's testimony by consent of libellants' attorneys, Messrs. Emmons and Newberry.

Deposition of James M. Lundy, taken before John C. Grannis, United States Commissioner for the Northern District of Ohio, at his office in the City of Cleveland, on the 6th day of September, A. D. 1855.

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Dep'n of Jas. M. Lunday.

Witness saith: I reside at Cleveland, Ohio, and am by profession a seaman. I have given testimony in this case once before. I was present at the examination of De Grass McNett before R. C. Parsons, U. S. Com'r, and recollect well what took place upon that occasion. I remember more particularly what took place on that occasion as the dispute between McNett (the lawyer) and McNett (the mate) was principally addressed to me. I have had read to me the above deposition of A. J. McNett carefully, and my recollection as to what took place on that occasion, as sworn to by him, corroborates his entirely. No diagrams were used on that occasion, but the tables were cleared, and books were used to indicate the course and position of the vessels.

Cross-examined by Mr. Emmons.

Ques. Explain, if you can, the precise point in dispute between McNett, the lawyer, and the mate.

Ans. The manner in which the lights were made. The question was asked McNett, the mate, which light of the steamer would you necessarily see, she running west-southwest, and you steering northeast by east, and you, at the same time, making her lights two points over your starboard bow? The mate claimed you would see the starboard light, and McNett, the lawyer, claimed that it would be the larboard or red light; and the dispute was whether that question had been answered correctly or not. The books were placed upon the table to show which was correct.

J. M. LUNDY.

The above deposition of J. M. Lundy is taken in the manner it is, corroborative of the deposition of A. J. McNett, by consent of libellants' proctors, Messrs. Emmons and Newberry.

Deposition of Rufus P. Spalding, taken before J. C. Grannis, United States Commissioner for the Northern District of Ohio, at his office in the City of Cleveland, on the 6th day of September, A. D. 1855.

Dep'n of R. P. Spalding.

Witness saith: I have acted as proctor in admiralty for the claimants, Chamberlain and Crawford, in this suit, from its inception, and am still acting in that capacity; that I was present at the office of R. C. Parsons, Esq., U. S. Commissioner in the City of Cleveland, Ohio, when sundry depositions were taken in behalf of said claimants, in the winter immediately following the collision between the steamer Atlantic and the propeller Ogdensburgh, among which were the depositions of Captain Richardson and De Grass McNett, and superintended mainly the taking of said depositions. I am quite

confident that said De Grass McNett gave no intimation by word or deed, on that occasion, whereby an attentive mind could be led to believe that he at any time saw the red signal light of the Atlantic on the night of the collision until the steamboat had approached within four or five times her length of the propeller, and was heading directly on to him. The lights spoken of by him as having been actually seen at any greater distance off, were uniformly called "light" or "lights," and were by me understood to signify a common bright light, and none other. He was at one time asked by counsel for libellants, in substance, what it denoted when the steamer showed him her "red light," and he answered that it denoted that she was coming right into him, or in language to that effect. In my judgment, there would have been no misapprehension at all if the question had been asked specifically—"At what point of time did you first see either the red or green signal lights of the Atlantic?" My office was at that time on the same floor, in the same building, with that of the commissioner, and I think I only stepped into my room for a moment during the examination of De Grass McNett. My attention was kept most intensely fixed, at that time, upon his whole narration and conduct, as I deemed it vitally important to the interests of my clients, he having been the officer of the deck at the time of the disaster. I feel that there is no room for me to be mistaken in the premises, although I am bound to admit that, as chief counsel for claimants, I feel an unusual degree of interest in the case. A sense of duty leads me to testify, as counsel on the other side, for whom I have great respect, have been called on by libellants to give depositions setting forth a different state of facts.

R. P. SPALDING.

EBER B. WARD and STEPHEN CLEMENT, survivors of themselves and SAMUEL WARD, dec'd, Libellants and Appellants, owners of the Steamboat ATLANTIC,

vs.

PHILO CHAMBERLAIN and JOHN H. CRAWFORD, owners of the Propeller Ogdensburgh, Respondents and Appellees.

Decree.

In Admiralty, Appeal from the District Court.

Eber B. Ward, Samuel Ward, and Stephen Clement having heretofore filed their libel in the District Court of the United States, for the District of Ohio, in admiralty against Philo Chamberlain, John H. Crawford, and the propeller Ogdensburgh, and the said respondents having excepted to the said libel in the said District Court for the misjoinder of a suit in personam and also in rem in a cause of collision, and the said District Court having sustained said exception, and said libellant having amended said libel so as to proceed against said Chamberlain and Crawford in personam according to leave given by said District Court, and said cause having been by

said District Court determined upon the merits and decree rendered therein against said libellants, and the said cause having been duly appealed to this Circuit Court and entered therein, and after said appeal and entry the said Samuel Ward having deceased, and the suggestion of the same having been duly entered in this court, and an order made that the cause be in all things proceeded in in the name of said Eber B. Ward and Stephen Clement as survivors, and the said cause having been duly brought to a hearing upon the pleadings and proofs adduced by the respective parties, and having been fully agreed by the proctors and advocates of the parties respectively, and due deliberation being had, and it appearing to the court that the officers and crew of the propeller Ogdensburgh were in fault, among others, in the two following particulars: That they did not when approaching the said steamer Atlantic port their helm as was their bounden duty by the rules of navigation to do, but ignorantly or perversely persisted in keeping their course, and in attempting to cross the bows of the said steamer thereby contributing to the immediate cause of said collision.

That the signal lights of the said propeller Ogdensburgh were so nearly extinguished as to be of no practical use, and therefore were not such signal lights as were required by the acts of Congress in such cases made and provided for steam vessels running in the night time, thereby further contributing to the said collision. And it further appearing to the court that the officers and crew of the steamboat Atlantic were also in fault, but in a much less degree than the officers and crew of the Ogdensburgh, in that the speed of the Atlantic was not slackened sooner by the officer in charge in order that he might determine the course and character of the vessel bearing the approaching white light by him seen, and which proved to be in fact the said propeller Ogdensburgh. And it thereupon appearing to the court that there was mutual fault in the management of said vessels. It is ordered, adjudged, and decreed, that the decree of the said District Court heretofore rendered in this cause in all respects be and the same is hereby reversed and held for nought, and that the damages in the cause be equally divided and each party shall bear a moiety of the same. And it further appearing to the Court by the agreement of counsel in open court, that the value of said steamboat, being a total loss, at the date of said collision was the sum of seventy-five thousand dollars, and the damages to the propeller Ogdensburgh the sum of three thousand dollars.

It is further ordered, adjudged, and decreed, that the libellants do recover of and from the said respondents, and that the said respondents do pay to the said libellants the sum of thirty-six thousand dollars; and it is further ordered that the whole costs in both courts be equally divided between the parties, each party to pay one-half to be taxed, and in default of such payment, that execution issue therefor.

The above named respondents conceiving themselves aggrieved by

the final sentence or decree entered on the twelfth day of November, A. D. 1856, in the above entitled cause, so far as the same charges said respondents with the payment of one moiety of the damages and costs, do hereby appeal therefrom to the Supreme Court of the United States, and they pray that this their appeal may be allowed and that a transcript of the record, proceedings, and evidence in the cause duly authenticated may be sent to the said Supreme Court.

SPALDING & PARSONS,
Proctors for Respondents.
HENRY SANBURY, *Advocate.*

Ordered by the Court that an appeal be allowed in this case to the Supreme Court of the United States, and that the appellants give bail in the sum of fifty thousand dollars. Whereupon said appellants produced and place on file their appeal bond in said sum of fifty thousand dollars, with Isaac L. Hewett, J. H. Chamberlain and George W. McNeal as their sureties, which bond is approved by the Court. Ordered that the clerk of this Court make out and transmit to the Supreme Court of the United States a transcript of the record, proceedings and evidence in this cause, duly authenticated.

Wednesday, November 12, 1856.

Appeal Bond of Respondents.

Know all men by these presents that we, Philo Chamberlain, John H. Crawford, and Isaac L. Hewett, of Cleveland, County of Cuyahoga and State of Ohio, and John H. Chamberlain, and George W. McNeal, of Akron, Summit County, Ohio, are held and firmly bound unto Eber B. Ward, of Detroit, in the State of Michigan, and Stephen Clement, of Chicago, in the State of Illinois, survivors of Samuel Ward, late of the City of Detroit aforesaid, deceased, in the sum of fifty thousand dollars, to be paid to the said Eber B. Ward and Stephen Clement, their executors, administrators, or assigns; to which well and truly to be made we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Dated this 12th day of November, in the year of our Lord one thousand eight hundred and fifty-six.

Whereas the above bounden Philo Chamberlain and John H. Crawford have appealed to the Supreme Court of the United States from a decree of the Circuit Court of the United States for the Southern District of Ohio, bearing date the 12th day of November, A. D. 1856, in a cause in which the said Samuel Ward, Eber B. Ward and Stephen Clement were libellants, and the said Philo Chamberlain and John H. Crawford were claimants of the propeller Ogdensburgh and respondents. Now, therefore, the conditions of this obligation

is such that if the above named appellants, Philo Chamberlain and John H. Crawford, shall prosecute their appeal with effect, and pay all such damages, costs and expenses as shall be awarded against them as such appellants therein, then this obligation to be void, otherwise to remain in full force and effect.

PHILO CHAMBERLIN, [SEAL.]
JOHN H. CRAWFORD, [SEAL.]
J. H. CHAMBERLIN, [SEAL.]
GEO. W. McNEEL, [SEAL.]
J. L. HEWETT. [SEAL.]

Sealed and delivered in presence of
JOHN V. N. LOCKE,
A. W. FRENCH.

SOUTHERN DISTRICT OF OHIO, *ss.*

I, William Miner, Clerk of the Circuit Court of the United States, Seventh Circuit and Southern District of Ohio, do hereby certify the foregoing to be a transcript of the record of the Circuit Court in the case named at the beginning of this copy (commencing with page one, and ending with page seven hundred and two, inclusive), made up pursuant to rule fifty-three of the rules of practice of the Supreme Court of the United States.

In testimony whereof I have hereunto set my name and affixed the seal of said Court at the City of Cincinnati, the 24th day of March, eighteen hundred and fifty-seven, and of the independence of the United States the 81st.

[SEAL.] WM. MINER, *Clerk.*

By the Honorable John McLean, Presiding Judge of the Circuit Court of the United States for the Southern District of Ohio, in the Seventh Circuit.

To Eber B. Ward and Stephen Clement, survivors of Samuel Ward, deceased:—

Whereas Philo Chamberlin and John H. Crawford, owners of the propeller Ogdensburgh, have appealed to the Supreme Court of the United States from a decree this day rendered in the Circuit Court of the United States for the Southern District of Ohio, in the 7th Circuit, made in favor of you, the said Eber B. Ward and Stephen Clement, as survivors of Samuel Ward, deceased, against them the said Philo Chamberlin and John H. Crawford, and have filed the security required by law.

You are, therefore, hereby cited to appear before the said Supreme Court at the City of Washington on the twelfth day of December next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the City of Cincinnati, in the Southern District of Ohio, in the Seventh Circuit, the 12th day of November, in the year of our Lord 1856.

JOHN McLEAN.

Rec'd for appellees copy of citation and petition of appeal.
Cincinnati, Nov. 12, 1856.

J. S. NEWBERY, *of Counsel.*

The opinion of the court was delivered by

McLEAN, J.—This is an appeal in admiralty. The libellants allege they were the owners of the steamboat Atlantic, which was engaged in the transportation of passengers and freight between the port of Buffalo, New York, and that of Detroit, Michigan; that on the 19th of August, 1852, in the evening, she left Buffalo for Detroit with freight and a large number of passengers; that at half-past two o'clock on the morning of the 20th August, being on her usual course off Long Point, on the Canada shore, the propeller Ogdensburgh, of which Robert Richardson was master, then being on her way from Cleveland to the entrance of the Welland canal, run into the Atlantic with great force, the bow of the propeller striking the larboard side of the Atlantic, near the forward gangway, which opened her side, so that in a short time she sunk in about twenty-five fathoms water.

The respondents say, in their answer, that on the 19th of August, 1852, the Ogdensburgh, being heavily laden, left the port of Cleveland, between twelve and one o'clock, and proceeded down the lake by Fairport, in Ohio, towards her port of destination, Ogdensburgh, New York, though the Welland canal, in Canada. That at about two o'clock on the morning of the next day, the propeller being on her correct course, northeast by east, the wind being light from the southwest, and the weather somewhat hazy, the watch on her deck discovered a steamboat light, from two to three points on the propeller's starboard bow, at the distance, as was supposed, of about three miles. The propeller was running about seven miles an hour; her second mate being on watch, perceived the light was nearing him rapidly, and he gave the signal to slow; and seeing the light continued to near him, he then made the signal to stop the engine, and immediately afterward to reverse it; but, notwithstanding these precautions, a collision ensued.

The true course of the Atlantic is alleged, in the answer, to have been for Detroit, southwest by west, which, if pursued from the time her light was discovered, would have taken them near a mile south of the propeller.

The evidence is voluminous on both sides. This, if not required, is justified by the amount in controversy; and especially by the deplorable consequences of the collision, which caused the loss of some one hundred and forty persons.

Omitting matters in detail and incidental, the evidence of the libellant makes the following case: The Atlantic was a staunch steamer of the first class, of a capacity to carry upwards of eight hundred tons, with an engine of a thousand horse power. She had her complement of officers and men, with her lights brightly burning. At the usual time of departure, between nine and ten o'clock at night, she left Buffalo for Detroit, loaded with freight, and

more than five hundred passengers. In performing her two weekly trips between Buffalo and Detroit, the course of the Atlantic was usually southwest by west, and she was steering that course on the night of the collision. It was a starlight night, the wind being slight, but a haze rested upon the lake, which extended upwards some twenty or thirty feet. The lights of a vessel could be seen some five or six miles.

The course of the Atlantic lay near Long Point, which projects into the lake on the Canada side, on the point of which there is a light-house, and which is some sixty or seventy miles from Buffalo. After making Long Point, the Atlantic was some fifteen or twenty minutes in running abreast of it, her course being changed one-fourth of a point to the southward. At this place the former course of southwest by west was resumed. The officer of the deck, the second mate, occupied no particular place, but was on the top of the promenade deck, in the pilot-house not to exceed one or two minutes, on the top of it, on the hurricane deck, sometimes on the starboard or larboard of the promenade deck.

While standing in the pilot-house, the light of the propeller was made; one light was at first seen, then another, both having the appearance of glimmering stars. They were made on the larboard bow of the Atlantic, bearing three-fourths of a point. They were supposed to be lights on a sail vessel. At this time, the signal lights of the steamer were burning brightly. On seeing the lights of the approaching vessel, the helmsman of the Atlantic was ordered to port her wheel, which was done. Shortly after, from the top of the pilot-house, the lights discovered were observed to be nearing the Atlantic, and, in fact, were close to her. The wheel of the Atlantic was then ordered hard a-port. From the top of the pilot-house and not before, the approaching vessel, by the reflected lights of the Atlantic, was discovered to be a propeller. It was then too late to stop the steamer, and the only chance of escape, as supposed by the deck officer, was to let her go ahead. The signal lights of the propeller were looked for, but not seen. The propeller struck the steamer on the larboard side, which penetrated into the main hatch and below the water-line, through which the water gushed into the Atlantic, and in one or two minutes her bow sunk, and the fires were extinguished. The stern remained above the water until sunrise the next morning.

The respondents' case, as shown by the evidence on their part, is, the propeller left Cleveland the 19th of August, 1852; was kept down the lake near the shore to Grand river, and continued from that place east-northeast until two o'clock, when she was hauled off northeast by east. Soon after this change, a light was observed on the propeller, two or two and one-half points on her starboard bow, and the helmsman was directed to keep her on her course. The light was supposed to be at a distance of three miles.

The light approached the propeller, but did not appear to cross her path. In two or three minutes the bell was rung to slow the engine, and in six minutes, more or less, the engine was stopped and reversed. Seeing that a collision was inevitable, the wheel was then put hard a-starboard, with the view to break the force of the blow. By the oaths of the captain, mate and helmsman of the propeller, at the time of the collision her signal and other lights were burning brightly. The same witnesses say, that by the stoppage and reversal of the engine the force of the propeller was reduced to some three miles an hour, at the time she struck the Atlantic.

It is important to ascertain the position and course of the vessel immediately before the collision. A map of Lake Erie, made on actual survey, by the bureau of Topographical Engineers of the United States, was used on the trial, on which was marked the courses as proved to have been run by the respective vessels, from Buffalo and Cleveland, up to the time of the collision. This map is presumed to be accurate.

McNatt, the mate of the propeller, says his watch commenced at twelve o'clock at night, and that he kept the propeller east-northeast, until two o'clock, and then hauled off from the southern shore of the lake, northeast by east, and that soon after this change the lights of the Atlantic appeared. If McNatt, as he swears, from twelve o'clock to two steered the propeller the course she had run, east-northeast, and then changed to northeast by east, he would not have passed within ten miles of the place of collision. From the statement of Captain Richardson, the collision took place some four or five miles west by south of Long Point, the Atlantic having passed within about four miles of the light-house. This is only important as showing the inaccuracy of the statements of Captain Richardson and his mate, McNatt, as to the course of the propeller; and that, when she struck the Atlantic, her course was from the southern shore of the lake, at an angle with the course of the Atlantic, which must have made the larboard lights of the Atlantic on the starboard bow of the propeller. As the vessels approached each other, on the above hypothesis, the lights would become less perceptible, and to a person on the deck of the propeller the Atlantic would seem to be heading on to her. This supposition is sustained by the evidence in the case, and by the declarations of McNatt, that his course crossed the path of the Atlantic.

The lights of the propeller, except the signal lights, were made on the larboard bow of the Atlantic, and the larboard lights of the Atlantic, including the red light, were made on the starboard bow of the propeller. The course of the Atlantic was southwest by west; that of the propeller, as stated by McNatt, was northeast by east. Now, if the propeller had been running this line, north of

the line of the Atlantic, the lights of the propeller could not be made on the larboard bow of the Atlantic. It will be recollected that the lights of both vessels, as at first seen, continued to be displayed until the moment before the collision. The Atlantic was running westerly, the propeller easterly, it is alleged, on parallel lines. Now, without a reversal of the order of nature, on this hypothesis, the starboard lights of the propeller could not be displayed on the larboard bow of the Atlantic, nor could the larboard lights of the Atlantic be made on the starboard bow of the propeller. This sufficiently demonstrates the error of the respondents, in assuming that the propeller, when the larboard lights of the Atlantic were made on her starboard bow, was north of the Atlantic. And this is the position taken in the argument.

The hypothesis that the propeller was approaching the path of the Atlantic, from the south, by an angle which displayed the light of the propeller to the larboard bow of the Atlantic, and caused her larboard lights to shine on the starboard bow of the propeller, is consistent with the evidence in the case; and the demonstration above stated is conclusive of the fact. It seems to be clear, from the facts stated, that McNatt intended to pass the bow of the Atlantic. But this does not rest upon inference alone; McNatt repeatedly declared, at different times, in explanation of the collision, and immediately after its occurrence, that he did intend to pass the bow of the Atlantic, and that he would have accomplished his purpose had not that vessel ported her wheel. These remarks were made at different times and occasions, as shown by some fifteen or twenty witnesses. Whether the declarations of McNatt, thus proved, be considered as evidence in chief, or as discrediting the witness, the result, under the facts, must be the same.

If these declarations of McNatt be true—and on one occasion he verified their truth by an oath—no one can doubt that the propeller was south of the line of the Atlantic. Could McNatt wish to pass the bow of a vessel behind him? This determination to cross the path of the Atlantic was carried so far as to render the collision inevitable. Until this was perceived by McNatt, to use his own words, he did not apprehend danger.

The right to keep his course was, probably, an afterthought with McNatt. Seeing the terrible result of his act, it was natural for him to seek some palliation or excuse. The fact was attributed to the Atlantic in porting her helm; but he had a right to keep on his course. This right he has no doubt claimed from a rule in navigation which, under certain circumstances, allows one of two vessels meeting each other to keep on her course, while the other is required to give way. This rule is more calculated to cause collisions than to avoid them. Is a concurrence of judgment to be expected in the masters of two vessels approaching each other, as to the conditions prescribed, even in daylight, and especially at night?

A rule of navigation, to be effectual, must be simple and positive. It should be liable to no exceptions. It should be so plain that any man who knows his right hand from his left can follow it. "Where two vessels approach each other in opposite directions, each should turn to the right." Let this be observed and there will be no collisions. The rule should apply indiscriminately to all vessels, whether propelled by wind or steam. And if it should happen that one vessel is unable to turn to the right, the other vessel will never doubt as to its course, if practicable, and that will be sufficient to avoid her.

Although the officers of the propeller saw the steamer at the distance of three miles, and from her lights knew her character, the propeller kept on her course; when the vessels approached each other very near, an order was given to slow the propeller, to stop the engine, and then to reverse it, which McNatt swears broke the force of her blow, as she could not have been moving more than at the rate of three or four miles an hour; but on other occasions, it is proved he said these measures were taken so short a time before the collision, as not materially to lessen the force of her movement. And this would seem to be the fact from the wound inflicted on the Atlantic. It is true the helm of the propeller was starboarded when the vessels were nearly in contact, which was done, as McNatt states, not to avoid a collision, but to render the conflict less injurious by a slanting blow.

It is argued that the propeller, under existing circumstances, was bound to keep her course; that to have thrown her helm a-port, while the Atlantic was from two to three points on her starboard bow, would have been a gross violation of the rules of navigation; and several experts have given their opinion approving of the course of McNatt.

These opinions were given and the usage stated, on the hypothesis that the boats were running on parallel lines, that of the Atlantic being south of the propeller's. This supposition is shown to be incorrect, from the fact that the red light of the Atlantic was seen on the starboard bow of the propeller, and the lights of the propeller made three-fourths of a point on the larboard bow of the Atlantic. This would be impossible if the propeller were running on a parallel line with the Atlantic. That the lights were seen as stated, no one can doubt, as the witnesses on both boats concur.

The captain of the propeller seems to differ from his experts and the counsel. When he met McNatt on the deck, after the collision, he inquired of him if he saw the red light of the steamer; and being answered that he did, with great emphasis, the captain said, "why did you not port?" The captain knew, as McNatt afterwards swore, that the propeller's line was from the southern shore of the lake, and that it lay across the path of the Atlantic.

The libel charges that the propeller had not her signal lights

burning, and displayed as the law requires. That the deck officer of the Atlantic supposed the lights were on a sail vessel; and that he was warranted in so judging, and in running the Atlantic, Carney, the watch on the Atlantic, Brigham, an experienced seaman, who was a passenger, Rose, a fireman, Barry, the wheelman, all on board the Atlantic, and all of whom saw the approach of the propeller until she struck the Atlantic, and they all looked for signal lights, and saw none on the propeller.

Warner, respondent's witness, was on board the Atlantic; saw a white light at about 2 o'clock, or after, one point over her larboard bow; thought it was a sail vessel; when the vessels were within fifty feet of each other, he then, for the first time, saw a signal light, he thinks, but is not certain. But Wells, McPherson, Barnes, Kenedy, Welsh, Meeler and McGrain, all hands on board of the propeller, and Mr. and Mrs. Ring, passengers on that boat, concur in saying the signal lights were nearly out, and could not be seen more than a few rods.

It is true that McNatt and Captain Richardson swear that the signal lights were burning at the time of the collision, and continued to burn until the propeller landed at Erie. But the facts sworn to by these witnesses are disproved by so great a number, as to leave no doubt that the signal lights were so nearly extinguished as not to be seen further than one or two lengths of the vessel. McGrain, whose duty it was to trim the lamps, after the collision, when he came on deck, the captain ordered him to trim that light, pointing to the signal light. The witness brushed off the scum or hard crust that was on the top of the wick of the light, picked it and put it back in its place. One of the tubes of this signal light was entirely out. The light could not be seen, McGrain says, but little further than the length of the boat. The signal lights, unless trimmed by twelve o'clock at night, he says, would not afford a light more than twice the length of the vessel. They were not trimmed on the night of the collision, until after it occurred.

Several of the witnesses saw these lamps burning after they were trimmed. As two white lights were shown by the propeller, it is argued that the officer of the deck of the Atlantic might have known they were not carried by a sail vessel. But it is proved that many sail vessels carry two white lights; and it is clear, that no number of white lights can excuse the want of colored lights which the law requires every steamer to carry.

On two grounds the propeller is clearly chargeable with fault. First, when she saw the light of the Atlantic she should have ported her helm, instead of continuing her course. The assumption that she was north of the line of the Atlantic is not sustained by the evidence, and is contradicted by the declarations of McNatt, by the lights made on the bows of both vessels, which showed the

supposition was unfounded, and could not, in the nature of things, be true. No doubt is entertained that the display of lights is accounted for by the angle at which the vessels approached each other, and which is the only hypothesis sustained by the evidence. Had the propeller ported her wheel, and put it hard a-port, there would have been no collision. This would have caused the propeller to pass the stern of the Atlantic. McNatt was either ignorant of his duty or perversely wrong in continuing his course, and especially in his attempt to pass the bow of the Atlantic. There is no rule of navigation which sustains him, but the contrary. And to this act of his, more than any other, is the sad calamity to be attributed.

In the case of the *Ann & Mary,* 9 English Admiralty Rep. 195, the Trinity masters say: "We beg to observe to this court, that the golden rule so long established must be strictly adhered to; it is this, that the larboard tack is to give way, and the vessel on the starboard tack to hold on." This rule when applied to the open sea is pregnant with danger, as above observed. It is salutary, no doubt, when applied in a narrow river, where its shores show the position and course of each vessel. But the masters say, "and the new rule which has been lately made for steam vessels, namely, each to put the helm a-port under all doubtful circumstances." This rule is founded on common sense and common prudence. It was disregarded by the propeller.

But, in the second place, the propeller was chargeable with fault in not having her signal lights in order. These lights, it is true, to some extent were burning. They were not entirely out, but, for all practical purposes, they might as well have been extinguished. They were so low, and so encrusted by the atmosphere, that they could not be seen scarcely twice the length of the boat. It is true the mate on deck, the captain, and one or two others, swear those lights were burning at the time of the collision. After the collision, the captain directed McGrain to fix this or these lights. He saw the defects, and this order shows it; and it is proved by so many persons on both boats, and especially by those on board the Atlantic, who were experienced sailors, and who looked for the signal lights as the propeller approached but did not see them, that the force of the evidence is irresistible. One witness only on the Atlantic thought he saw one of those lights at the time of the collision, but is not certain. Until Carney saw the hull of the propeller on her near approach, by the reflected lights of the Atlantic, he supposed the white lights seen were carried by a sail vessel. Had he been warned by the signal lights that the approaching vessel was a steamer, Carney says he would have stopped his vessel. Defective signal lights, which would not enable an approaching vessel to see them at such a distance as to avoid a

collision, are not lights within the law. And this was the condition of the propeller's signal lights at the time of the collision. The second ground of fault, in my judgment, is as clearly established as the first one.

But was the management of the Atlantic faultless? I think it was not. The objection that the captain, instead of standing his watch, substituted the second mate, and retired to rest, and was not seen on deck again until roused by the collision, is not in itself a fault. In this Captain Pettys, master of the Atlantic, did nothing more than was usually done by masters of steamers when the night is clear and calm. The second mate, under such circumstances, is often ordered to the deck. The assertion that the second mate was incompetent to the duties assigned him is disproved by a great number of experts, which relieves the second mate from any just imputation of ignorance or want of energy.

The Atlantic had in her charge about five hundred passengers. This imposed upon the officer in command awful responsibilities. It should have quickened his solicitude and energy in the discharge of his duties. When he first descried the approaching vessel he put his helm a-port, and a moment before the contact he ordered it hard a-port. Seeing only the white lights, he supposed the vessel carrying them to be a sail vessel. No signal lights indicating it to be a propeller were seen by him until after the collision, and after the signal lights had been trimmed.

The experts called by the libellant say that the Atlantic was very properly kept on her way without any abatement of her speed. They were right, probably, on the supposition that the propeller had been a sail vessel. From the slow progress of such a vessel, the steamer in all probability would have passed her without danger. But had the mate a right to presume the approaching light to be on a sail vessel, and to act accordingly? Technically, perhaps, he had. But could there be no doubt as to the character of the approaching vessel? Had Carney a right to hazard the safety of his passengers on the faithful conduct of the master of the vessel in view? The lives of the passengers were ventured on the Atlantic on the character of the vessel, and the skill and efficiency of its officers. A trust was reposed in them, and not on the good conduct or skill of the officers of such vessels as they might meet. Under such circumstances, it is not enough for an officer to be within the rules of navigation so as to charge the wrong on the colliding vessel. Notwithstanding this wrong in an approaching vessel, the peril must be seen and guarded against, by an exercise of skill and firmness which, under such an emergency, might reasonably be expected from competent officers.

Prudence required, when the lights of the propeller were seen, that the Atlantic's helm should be ported, and the course of the approaching vessel ascertained; and if this could not be done ex-

cept by slowing or stopping her engine, the boat should be checked or stopped. It is true that a steamer, by the present rules of navigation, may take either the larboard or starboard side of the sail vessel. This leads to many collisions, as the sail vessel may mistake the intentions of the steamer, and run across her path; but if each had to pass the other on the right, there could be no mistake.

In *St. John* v. *Paine*, 10 Howard, 557, speaking of the Trinity rules, the court say: "These rules have their exceptions in extreme cases, depending upon the special circumstances of the case, and in respect to which no general rule can be laid down or applied. Either vessel may find herself in a position, at the time when it would be impossible to conform to them without certain peril. These cannot be anticipated, and therefore cannot be provided for by any fixed regulation. They can only be examined, and the management of the vessel approved or condemned, as the case may arise." And again in *Peck* v. *Sanderson*, 17 Howard, 178, the court say: "Neither can the order to stop the engine and back, instead of changing the course of the steamship, be regarded as a fault. It would evidently have been unwise to change the course until the course of the approaching vessel was ascertained. She might be approaching at an angle that would clear the steamship, and a change in the course of the latter might produce a collision, instead of preventing it."

Carney admitted, that if he had known the approaching vessel was a propeller, he would have stopped the engine. For the safety of his boat and passengers, it was important that he should know the character of the vessel and her course. But he did not stop to ascertain either. He judged of the one by the light which appeared, and of the other from the light made on his starboard bow. But he erred in both cases. The approaching boat was running at an angle to the line of the Atlantic, and, in such case, porting his helm and then hard a-port would not, and did not, avoid her.

The commander of a boat has no right to incur any risk which jeopards the lives of his passengers, and which he may avoid. Had the engine of the Atlantic been slowed two minutes, there would have been no collision. The experts sustain Carney in keeping the Atlantic at full speed on her course. The opinions of experienced seamen may be relied on, where there is no mistake in the facts on which it is founded. They judged, in the present case, from the lights made on the larboard bow of the Atlantic, not knowing whether the light so made was from the starboard or larboard light of the approaching vessel. The fact proved that the larboard lights of the Atlantic were made on the starboard bow of the propeller, which showed that the course of the propeller crossed the path of the Atlantic; and in such a case no prudent man could advise the Atlantic to keep her course and speed. Un-

der such circumstances a collision was certain, if the vessels should meet at the point where the propeller's line crossed that of the Atlantic. When lights are made, it is always difficult, and often impossible, to tell the course of the approaching vessel; and until this shall be ascertained, the vessels should stop their engines. Where the vessels are approaching each other at an angle, whether they will meet at the angle depends upon the relative distances and speed of the boats, which no one can calculate or determine. Under such circumstances, there is no safety but in the stoppage and reversal of the engines. When vessels are approaching each other in parallel lines, or in the same lines, the helm of each should be ported.

On the approach of danger, every officer should be called to the deck, and the master, to whom the vessel is chiefly intrusted, should take the command. I am aware that this has not been required; and I am also aware that the destruction of human life has become so common from collisions of steamboats, that the country look upon them as ordinary occurrences. The Atlantic cannot be held faultless, as the measures dictated by prudence and necessity were not taken to avoid the collision.

There is evidence in the case tending to show the most reprehensible and inhuman conduct of Captain Pettys, of the Atlantic, after the collision. This has been explained, or contradicted, by other testimony. He is charged with calling, when in the life-boat of the Atlantic, on the boat of the propeller to come and take him on that boat, as he was Captain Pettys, of the Atlantic. It seems Captain Pettys was in the boat, but that it was not he, but another person, in the same boat, who made the request. It is also stated that, when on board the propeller, he advised Captain Richardson not to go to the wreck of the Atlantic with the propeller, as the passengers were so numerous as to sink her. It is said by other witnesses that Pettys expressed much solicitude to save the passengers, and advised Captain Richardson to exert himself. Before Pettys left the sinking vessel, it is charged that he used force to prevent the passengers from entering the boats until he and his crew were safe. This is not proved, except upon very doubtful evidence. Before he left the boat Pettys directed her to be listed down to the starboard, with the view to elevate the wounded part above the water. The vessel was careened, but it did not save her from sinking.

Captain Pettys, it is proved, received a severe wound in the head directly after the collision, which for a time disabled him; and it seems he was under medical treatment for some time after his arrival at Erie. He is spoken of by the witnesses as a competent and popular master. Capt. Richardson says, when the propeller reached Erie, not being acquainted with the entrance to the harbor, he hesitated about entering it, when Captain Pettys took the command

of the vessel and landed her. If this be so, his wound could not have been as severe as some of the witnesses supposed. But I cannot but observe that the haste with which Captain Pettys left the sinking steamer shows that he had not the moral daring which fitted him for such a crisis. The captain of a ship should be the last to leave her; he should go down with her or buffet the waves, rather than save himself by occupying a place in a life-boat to the exclusion of a passenger. The wound might, perhaps, have influenced the act of Captain Pettys, and may excuse him in leaving the steamer. Carney, the second mate, remained on the wreck until after sunrise. And, from the evidence, it appears all the passengers might have been saved if they had collected on that part of the stern of the Atlantic which remained above water, until after sunrise. Captain Richardson and McNatt, by unremitting and judicious efforts, rescued many of the passengers.

The weight of the responsibility for this great calamity lies on the propeller. The Atlantic was in fault, but not in the same degree as the propeller. Where the fault is mutual, the damages are divided, and not apportioned by the comparative culpabilities of the parties. The decree of the district court is reversed, and a decree will be entered that the damages stipulated be divided, one-half of which shall be paid to the libellants by the respondents.

It is not improper to remark, that the additional evidence procured in this case since the decree in the district court, has greatly changed its aspect. In the argument, the counsel for the libellants admitted the decree in that court was correct, on the evidence before it.